

Page 274

1 IN THE CHANCERY COURT OF JACKSON COUNTY,  
MISSISSIPPI

2

3 MIKE MOORE; ATTORNEY GENERAL,  
EX REL; THE STATE OF MISSISSIPPI PLAINTIFFS

4

5 V. CIVIL ACTION NO. 94-1429

6

7 AMERICAN TOBACCO  
COMPANY, ET AL. DEFENDANTS

8

9 VOLUME 2 - EXPERT  
DEPOSITION OF CHERYL GRUBBS

10 Taken at the instance of the Defendants at the  
Offices of Brunini, Grantham, Grover & Hewes,  
Suite 1400, Trustmark Building, Jackson,  
Mississippi, on November 7, 1996,  
beginning at 9:25 a.m.

11

12

13 APPEARANCES:

14 LEE YOUNG, ESQ.  
Scruggs, Millette, Lawson, Bozeman & Dent

15

16 COUNSEL FOR PLAINTIFFS

17 R. DAL BURTON, ESQ.  
Gene Watkins, Esq.  
Jones, Day

18

19 COUNSEL FOR DEFENDANT,  
R. J. REYNOLDS

20

21 LONNIE D. BAILEY, ESQ.  
Upshaw, Biggers

22

23 COUNSEL FOR DEFENDANT,  
AMERICAN TOBACCO COMPANY

24

25 KATHLEEN T. MULLERY, ESQ.  
Kirkland & Ellis

26

27 COUNSEL FOR DEFENDANT,

Page 276

1 INDEX

2 Style and Appearances.....274

3 Index.....276

4 Examination by Mr. Burton.....277

5 Examination by Mr. Bailey.....501

6 Certificate of Deponent.....505

7 Certificate of Court Reporter.....506

8

9 EXHIBITS:

10

11 Exhibit No. 20.....277

12 Exhibit No. 21.....290

13 Exhibit No. 22.....291

14 Exhibit No. 23.....308

15 Exhibit No. 24.....371

16 Exhibit No. 25.....394

17 Exhibit No. 26.....407

18 Exhibit No. 27.....428

19 Exhibit No. 28.....429

20 Exhibit No. 29.....430

21 Exhibit No. 30.....432

22 Exhibit No. 31.....433

23 Exhibit No. 32.....435

24 Exhibit No. 33.....435

25 Exhibit No. 34.....482

26 Exhibit No. 35.....482

27 Exhibit No. 36.....482

28 Exhibit No. 37.....482

29 Exhibit No. 38.....482

30 Exhibit No. 39.....482

Property of: Ness, Motley  
Main PI File Room  
Charleston, SC

Page 275

1 REPORTED BY: Ginger H. Brooks  
RPR, CSR - MS, TX, OK, #1165  
Brooks Court Reporting, Inc.  
120 N. Congress Street, Suite 600  
Jackson, Mississippi 39201  
(601) 355-5150  
1-800-245-3376

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 277

1 MR. BURTON: This is going to be the

2 continuation of the deposition of Ms. Cheryl

3 Grubbs. Ms. Grubbs, I remind you, you're still

4 under oath.

5 EXAMINATION BY MR. BURTON:

6 Q. I'm going to show you what the court

7 reporter is going to mark as Exhibit 20.

8 (Exhibit 20 marked for identification.)

9 Q. I believe you'll recall, Ms. Grubbs,

10 during the deposition yesterday we reviewed the

11 draft, Mississippi State Tobacco Plan which you

12 had prepared which was marked as Exhibit 15. And

13 I believe when going through that we discovered

14 that the footnotes to that plan had not been

15 included with the plan. Can you identify

16 Exhibit 20 as the footnotes that go with the State

17 Health Plan? It's Exhibit 15 in the notebook you

18 have in front of you.

19 A. These are the footnotes that go with the

20 Tobacco Prevention and Control Plan.

21 Q. May I see them? I'm sorry. We only

22 have one copy. I note on Exhibit 20 that 41 is

23 blank. Is there an Exhibit 41, do you know?

24 There is. It's on page 22?

25 A. Exhibit 15?

1 Q. Yes, ma'am.

2 A. On page 22?

3 Q. On page 22 I see Exhibit 41 right  
4 beneath the first sentence of the challenge.

5 A. Oh, there it is. I can't recall where I  
6 got that information. That's probably why it's  
7 still blank on here because I was going back.

8 Q. The same would be true of Exhibit 10,  
9 which is blank?

10 A. Footnote 10 is on page 3.

11 Q. You don't know where that --

12 A. I don't know where I got that particular  
13 sentence.

14 Q. When there is a reference in here to  
15 MSDH Vital Records, can you tell me what that is?

16 A. That's the Office of Vital Statistics.

17 Q. Can you tell me what records there are?

18 A. May I see that?

19 Q. I'm going to ask you about footnotes 28  
20 and 29 because it looks like to me it's perhaps  
21 the same reference but "unabbreviated." 28 is on  
22 page 14; 27 is on page 13.

23 A. Footnote 28, the reference to that came  
24 from some report that was produced by the Office  
25 of Vital Records at the State Department of

1 information that I pulled from our CVD Prevention  
2 Program which is housed in the Division of Health  
3 Promotion and Education.

4 Q. Is that a specific report, the Vital  
5 Records Division of Health Promotion and Education  
6 1996?

7 A. It's not a report.

8 Q. Can you tell me what document you  
9 would -- you were relying on when you concluded  
10 that cardiovascular disease kills a Mississippian  
11 every 60 minutes?

12 A. I have not relied on a document yet. I  
13 am planning to rely on both Vital Statistics and  
14 information that I get from the CVD Prevention  
15 Program to back this up if this can be --

16 Q. How do you know that is an accurate  
17 statement?

18 A. I don't know that. This is still a  
19 draft document, and I have plugged in information  
20 that I hope to be able to prove or disprove.

21 Q. Can you point out to me other statements  
22 that are made in here that you don't know whether  
23 you have support for or not other than this  
24 "Cardiovascular kills a Mississippian every 60  
25 minutes?"

1 Health.

2 Q. But you can't tell me what report it is?

3 A. Not without looking through the  
4 reports. I don't know if I took it from the  
5 annual report that they produce or from some other  
6 report that's produced there.

7 Q. The same would be true for footnote 29?

8 A. Footnote 29 is information I hope to  
9 obtain. I don't know if I can obtain it. We  
10 discussed that briefly yesterday.

11 Q. You've got a reference on footnote 29.

12 A. I realize I have a reference on it.  
13 That's for me to know to find out from Vital  
14 Statistics if I can get this information or not.

15 Q. Who will you talk to in Vital Statistics  
16 to see whether you can find that information?

17 A. I will probably ask Dick Johnson.

18 Q. What is his position?

19 A. I don't know his title.

20 Q. Now, on footnote 30 here you have  
21 Mississippi State Department of Vital Records and  
22 Division of Health, Promotion and Education,  
23 1996. Is that something different from the  
24 references in footnotes 28 and 29?

25 A. Yeah. This came -- this information is

1 A. You only want this page?

2 Q. Are there a lot of them throughout this  
3 report?

4 A. I can't answer that without looking  
5 through the entire report.

6 Q. Let's start with the ones on this page.

7 A. The first two that we've mentioned.

8 Q. Okay. That's the percentage of  
9 Mississippi deaths in 1994 as a result of  
10 cardiovascular disease, and the statement that  
11 cardiovascular disease kills a Mississippian every  
12 60 minutes?

13 A. Correct. Those are the only two on that  
14 page that I do not have documented.

15 Q. Let's go back to page 13 -- 13 and 14  
16 and look at the section under "Chronic Disease."  
17 Are there statements in that section that you do  
18 not know whether or not you have any support for?

19 A. I do have support for the statements on  
20 that page.

21 Q. On page 13?

22 A. Correct.

23 Q. And 14?

24 A. Under "Chronic Disease." Let me check  
25 page 14. I do have support for those statements

1 on page 14.

2 Q. Let's go back to page 3 where you have a  
3 series of bullet points about tobacco's negative  
4 effect on Mississippi. Tell me which of those, if  
5 any, you do not have support for.

6 A. I have support for all of them.

7 Q. And the support that you have is  
8 correctly reflected in the footnotes that we've  
9 marked as Exhibit 20? I believe you said 10 was  
10 blank because you didn't know what your support  
11 was for footnote 10.

12 A. I don't know where I got this specific  
13 statement. I can certainly support it. The  
14 information is out there, and I can find that  
15 information. If this is a direct quote, I do not  
16 know at this time where I took that direct quote  
17 from.

18 Q. Other than footnote 10, the support for  
19 the statements made on page 3 of Exhibit 15 are  
20 set forth in the footnotes that we've marked as  
21 Exhibit 20?

22 A. I believe they are.

23 Q. Let's just go through it quickly. Do  
24 you have support for the statements made under  
25 "Addiction" on page 4 of Exhibit 15?

1 see.

2 MR. BURTON: It doesn't matter whether  
3 they've been produced or not, Lee. My question is  
4 I want to know what her support is for these  
5 statements. And if she doesn't know what it is,  
6 that's fine. If she doesn't know where to look,  
7 or doesn't know what exactly it's going to be,  
8 that's fine. But I'm entitled to find out what  
9 report she is using to support a footnote in the  
10 State Tobacco Prevention and Control Plan.

11 MR. YOUNG: Which statement are you  
12 referring to?

13 MR. BURTON: Well, I started off trying  
14 to get an explanation of 28, 29 and that's --

15 MR. YOUNG: Now you're back on this,  
16 you're back on the addiction?

17 MR. BURTON: That's right, and the  
18 reason I am is because she said that the reference  
19 in the footnote does not mean it is a specific  
20 report as to which she's relying on, and she's not  
21 sure what she's going to rely on. And I want to  
22 know if there are other statements in this  
23 document that may be footnoted, but as to which  
24 she does not have specific support.

25 MR. YOUNG: As she sits here right now?

1 MR. YOUNG: Do you have it footnoted?  
2 Do you have a footnote?

3 A. Uh-huh.

4 MR. YOUNG: Dal, I'm going to object.  
5 If she's got a footnote for it that's her basis  
6 for the support, and I think she's told you that.

7 MR. BURTON: But we've got instances,  
8 Lee, where she says Mississippi Department of  
9 Health Vital Records, and I asked her what her  
10 support is, and she said, "I don't know."

11 MR. YOUNG: She just told you, "Vital  
12 Records."

13 MR. BURTON: Yeah, but I want to know  
14 what report in Vital Records. I want to know what  
15 her support is. She says, "I don't know where I'm  
16 going to go. I don't know what report it is."

17 MR. YOUNG: Is it the reports that  
18 you've turned over from Vital Records or that the  
19 Department of Health has turned over from Vital  
20 Records in the tobacco case?

21 A. The reports that I will use are public  
22 documents that the Department of Health has. And  
23 I don't know if they've been turned over, because  
24 they're not housed in my office.

25 MR. YOUNG: We can look on here and

1 MR. BURTON: Yeah.

2 A. On page 4.

3 Q. (By Mr. Burton) Yes, ma'am.

4 A. I have references footnoted 11 and 12  
5 are the documents that I have pulled some  
6 information from regarding the definition of  
7 addiction. I also have footnoted 13 which came  
8 from the Surgeon General's report, which is  
9 documented.

10 Q. Okay. I don't see anymore footnotes  
11 until page 6.

12 A. I have 14 --

13 MR. YOUNG: Which footnotes are you  
14 talking about?

15 Q. (By Mr. Burton) 14, 15, and 16.

16 A. I have documented that it came from a  
17 Surgeon General's report. As you can see, I don't  
18 have which one yet. That will be something that I  
19 still have to work on.

20 Q. Do you know where the stats in the first  
21 paragraph of that page came from that are not  
22 footnoted that you're talking about, "Mississippi,  
23 Adult Smokers?"

24 A. From BRFSS.

25 Q. Or YRBS?

1 A. I believe this came from BRFS.  
2 Q. The next footnote I see is on page 9.  
3 A. Footnote 17 came from the Surgeon  
4 General's report as documented. Footnote 18 come  
5 from -- came from the 1990 census as documented.  
6 Q. Next page 10 has footnotes 20 and 21.  
7 A. Footnote 20 came from the Mississippi  
8 State Department of Health, Office of Vital  
9 Records as documented.  
10 Q. What report from the Office of Vital  
11 Records?  
12 A. I would have to go back and look.  
13 Q. Because it talks about dying from  
14 pneumonia or influenza. That would not be a  
15 document produced in this case, correct?  
16 A. I cannot answer that.  
17 Q. Okay. You don't know what document  
18 you're referring to?  
19 A. I do not know at this point.  
20 Q. What about footnote 21?  
21 A. It indicates that it was taken from the  
22 Office of Vital Records at the State Department of  
23 Health.  
24 Q. But again, you don't know which report  
25 you were referring to?

1 A. I'm -- not looking at the report, I  
2 can't answer that.  
3 Q. Do you have somewhere in your office the  
4 research or background materials that you used in  
5 compiling this report?  
6 A. I do.  
7 Q. Would those materials contain whatever  
8 Vital Records that you're referring to?  
9 A. They do.  
10 Q. Were those records among those that were  
11 produced in this case?  
12 A. As far as I know, they were.  
13 MR. YOUNG: Except we didn't produce  
14 Surgeon General's reports and stuff. We saw no  
15 point.  
16 Q. (By Mr. Burton) Do you know if you  
17 relied on data that was compiled by the  
18 Mississippi State Department of Health for the  
19 State of Mississippi, or did you rely on data that  
20 had been compiled by a national organization?  
21 A. Both.  
22 Q. When you say, "Mississippi Department of  
23 Vital Records," would that mean that you're  
24 relying on a report prepared by the Mississippi  
25 State Department of Health Division of Vital

1 Records, as opposed to some national organization?  
2 --A. Correct.  
3 Q. The statistics at the top of that page  
4 are not footnoted. Do you know where they came  
5 from?  
6 A. At the top of which page?  
7 Q. Ten.  
8 A. BRFS.  
9 Q. Okay. Page 11 footnote, looks like it  
10 has footnote 22 on it.  
11 A. It indicates I got that from the Office  
12 of Vital Records.  
13 Q. Same situation, you don't know what  
14 specific reports you relied on?  
15 A. I don't know which specific report.  
16 Vital Records documents were housed in our  
17 clearing house, and most of the information that  
18 I'm using came from the clearing house. The  
19 Mississippi -- Mississippi Morbidity Reports are  
20 part of Vital Records reports.  
21 Q. Did you rely on those in the compilation  
22 of this report?  
23 A. You know, I would have to go and look  
24 through the documents in my office to see what I  
25 have relied on and what I have not.

1 Q. When do you think you're going to  
2 complete this report so that you tie up these  
3 loose ends with respect to the specific documents  
4 that are supporting the statements in this plan?  
5 A. As I indicated yesterday, I hope to do  
6 that in early 1997.  
7 Q. Would you provide us with a copy of the  
8 report once it is completed and finalized?  
9 A. It will be public record. I certainly  
10 will.  
11 Q. What does OSH mean in footnote 31?  
12 A. Office on Smoking and Health. That's at  
13 the Centers for Disease Control and Prevention in  
14 Atlanta, Georgia.  
15 Q. In 32 when you say "EPA report," you  
16 can't be anymore specific than that as you sit  
17 here today? It is support for the statement, "A  
18 Mississippian's risk of death as result of heart  
19 disease is increased 30 percent when exposed to  
20 environmental tobacco smoke?"  
21 A. I don't remember the year of the  
22 report.  
23 MR. YOUNG: For the record, it's  
24 probably the EPA's report on environmental tobacco  
25 smoke.

1 A. That was produced through our clearing  
2 house.  
3 Q. (By Mr. Burton) Is that what it was or  
4 was it some other EPA report?  
5 A. No, it was the EPA report on  
6 environmental tobacco smoke.  
7 (Off the record.)  
8 (Exhibit 21 marked for identification.)  
9 Q. The court reporter has marked  
10 Exhibit 21. Can you please tell me what that is,  
11 ma'am?  
12 A. It is a reporting and disclosure  
13 statement that I requested and received a number  
14 of years ago that provides information on lobbying  
15 funds received by elected officials.  
16 Q. And that is the document you referred to  
17 in your testimony yesterday that you obtained  
18 when? I can't remember what you said?  
19 A. Well, I can't remember which year it  
20 was. I'm sure it's on here somewhere. It's been  
21 a number of years ago that I requested this.  
22 February 1993.  
23 Q. And you obtained it from State or  
24 Federal government?  
25 A. Federal government.

1 Q. Did you ask the State government for any  
2 similar type information?  
3 A. I don't believe that I have.  
4 Q. Have you asked the federal government  
5 for that type of information in any other year?  
6 A. No, I have not.  
7 Q. To whom did you give that information or  
8 with whom did you share it?  
9 A. Ellen Jones and I discussed it. I don't  
10 know that it was shared with anyone else.  
11 Q. Shared with the Mississippi Smoke-Free  
12 2000 Coalition?  
13 A. No.  
14 Q. All right.  
15 (Exhibit 22 marked for identification.)  
16 Q. The court reporter has handed you what's  
17 been marked as Defendants' Exhibit 22, correct?  
18 A. Correct.  
19 Q. Have you ever seen that document before?  
20 A. No.  
21 Q. Did you bring with you this morning any  
22 documents to be produced in connection with this  
23 deposition other than Exhibits 20 and 21 which  
24 have been referred to in your testimony yesterday?  
25 A. No.

1 Q. Ms. --  
2 A. I'm at the wrong place.  
3 Q. We changed it by letter.  
4 MR. YOUNG: I think for fairness you  
5 need to ask her does she have any documents that  
6 would fit one of those categories. I don't want  
7 to leave on the record that she didn't bring them.  
8 MR. BURTON: I was going to do that  
9 later. I'll do that now.  
10 Q. (By Mr. Burton) Do you have any  
11 documents that you reviewed in connection with  
12 your work in this case?  
13 A. With my testimony today?  
14 Q. Yes, ma'am.  
15 A. Yes.  
16 Q. What did you review?  
17 A. I looked through YRBS, BRFS.  
18 Q. Do you remember which years?  
19 A. 1995 YRBS, 1994 BRFS. I read a couple  
20 of articles. I looked through a Surgeon General's  
21 report.  
22 Q. Do you remember the articles you read?  
23 A. I read a STAT article. I read -- you  
24 know, they're in my car, but I can't tell you the  
25 name of them.

1 Q. Two articles?  
2 A. A couple of articles.  
3 Q. Do you remember the topics?  
4 A. Tobacco.  
5 Q. More specific?  
6 A. One article was on what works with  
7 prevention, with youth prevention, initiatives  
8 with youth.  
9 Q. Who authored that document?  
10 A. I can't tell you that.  
11 Q. Do you remember the title of it?  
12 A. Not exactly.  
13 MR. YOUNG: It wasn't you, though?  
14 A. No, it wasn't me.  
15 Q. (By Mr. Burton) We've got a 1995 YRBS,  
16 1994 BRFS, an article on "Youth Prevention  
17 Initiatives that Work." Anything else that you  
18 reviewed?  
19 A. I read a STAT article about tobacco  
20 industry lobbying activities.  
21 Q. Can you remember anything more about it  
22 than that?  
23 A. Could you be more specific?  
24 Q. When it was written?  
25 A. Within the last year, I believe.

Page 294

Page 296

1 Q. What were its conclusions?  
 2 A. That the tobacco industry is not  
 3 attempting to take a responsible stand to prevent  
 4 youth from purchasing and using tobacco products.  
 5 Q. What does STAT stand for?  
 6 A. Stop Teenage Addiction to Tobacco.  
 7 Q. To be fairly described as an  
 8 anti-smoking group?  
 9 A. Fairly.  
 10 Q. Any other articles that you read or  
 11 reviewed in connection with your testimony here  
 12 today?  
 13 A. No.  
 14 Q. All right. Any documents you rely upon  
 15 in connection with your testimony today, including  
 16 any studies or works authored by you?  
 17 MR. YOUNG: Other than what's listed in  
 18 her disclosure statement?  
 19 MR. BURTON: Yes.  
 20 Q. (By Mr. Burton) Your disclosure  
 21 statement includes Surgeon General reports, youth  
 22 risk behavioral surveys, behavior risk factor  
 23 surveillance surveys, and then it says, "Various  
 24 health promotion literature." Can you tell me  
 25 what that is?

1 MR. BURTON: I think that question is  
 2 entirely appropriate, Lee. If she doesn't know  
 3 what her opinions are here today, then I'm  
 4 entitled to know that.  
 5 MR. YOUNG: You ask her, "Do you have an  
 6 opinion on certain topics?" You are not going to  
 7 just sit here and ask her --  
 8 MR. BURTON: At the end of the day I'm  
 9 going to ask her whether she's got anymore  
 10 opinions that she expects to give in this case.  
 11 MR. YOUNG: You can ask her what's  
 12 listed and talked about in her disclosure  
 13 statement. She's itemized the areas that she is  
 14 going to testify about and you can ask her about  
 15 what her opinions are about this.  
 16 We had this same thing happen in  
 17 California, Dal, and we're not going to have  
 18 that. We're not going to have just broad, "What  
 19 are you going to say in this case?" kind of  
 20 questions.  
 21 MR. BURTON: Of course, we are. She's  
 22 an expert witness. And I'm entitled to find out  
 23 what she's going to testify about.  
 24 MR. YOUNG: If you want to ask her  
 25 specific questions related to her disclosure

Page 295

Page 297

1 A. It further says, "Produced by the U. S.  
 2 Department of Health and Human Services, the  
 3 Centers for Disease Control, and various health  
 4 promotion journals." Any articles or publications  
 5 that I have received from Department of Health and  
 6 Human Services, ASTHO or OSH, JAMA, anything like  
 7 that that I can recall, I will rely on that.  
 8 Q. Can you be anymore specific?  
 9 A. Not at this moment. I don't know what  
 10 I'm going to --  
 11 Q. You don't know what you're going to say  
 12 today?  
 13 A. I don't know what I'm going to say. I  
 14 don't know what you're going to ask.  
 15 Q. Are you relying today on any articles  
 16 that you wrote?  
 17 A. I may.  
 18 Q. You don't know what your opinions are  
 19 going to be in this case as you sit here today,  
 20 Ms. Grubbs?  
 21 MR. YOUNG: I'm going to object to the  
 22 form of the question. You can ask her specific  
 23 questions about her opinions in the case, but as  
 24 far -- you're not going to ask her a broad  
 25 question like that.

1 statement, you can ask her.  
 2 MR. BURTON: Are you taking the position  
 3 that I can't ask her a question outside the bounds  
 4 of her disclosure statement?  
 5 MR. YOUNG: No, I'm not. But I'm going  
 6 to ask you to ask her a question not a open-ended,  
 7 "What are you going to say?"  
 8 MR. BURTON: I didn't ask her that. I  
 9 said, "Are you aware of what your opinions are  
 10 that you're going to express today?" That's what  
 11 I asked her.  
 12 MR. YOUNG: And she told you that she  
 13 didn't know until you're going to ask her a  
 14 question. She has an opinion that it's going to  
 15 rain today, but that may not be a question that  
 16 you're going to ask her.  
 17 Q. (By Mr. Burton) Have you prepared any  
 18 expert report in connection with your testimony in  
 19 this case?  
 20 A. No.  
 21 Q. Have you had any correspondence with  
 22 counsel concerning your expert testimony in this  
 23 case?  
 24 MR. YOUNG: Content you're not going to  
 25 talk about. Have we faxed you information?

1 A. Yes.  
2 Q. (By Mr. Burton) Have you received  
3 materials from counsel in this case?  
4 MR. YOUNG: If you recall.  
5 A. I received a notice that my deposition  
6 was going to be today.  
7 Q. (By Mr. Burton) Did you receive  
8 anything else?  
9 A. No.  
10 Q. How much correspondence have you had  
11 with counsel in this case concerning your expert  
12 testimony?  
13 A. Limited.  
14 Q. Did the correspondence you received from  
15 counsel, are you relying on that in any way in  
16 connection with your testimony in this case?  
17 A. To give my opinion?  
18 Q. Yes, ma'am.  
19 A. No.  
20 Q. Have you made any notes in connection  
21 with your anticipated expert testimony in this  
22 case?  
23 A. No.  
24 Q. Have you ever testified as an expert  
25 before, Ms. Grubbs?

1 A. No.  
2 Q. Have you ever testified as a witness  
3 before in a case?  
4 A. Once.  
5 Q. Tell me when you testified as a  
6 witness.  
7 A. It was in 199 -- 1973 or 4.  
8 Q. What kind of case was it?  
9 A. It had to do with a welfare case.  
10 Q. Were you testifying in your official  
11 capacity?  
12 A. I was.  
13 Q. I meant to ask you this yesterday, and I  
14 apologize. What did you do between the time you  
15 got out of high school and the time you went to  
16 college in 1981?  
17 A. I got married.  
18 Q. And raised a family?  
19 A. Correct.  
20 Q. In 1973, you said you testified in your  
21 official capacity. Where were you working in  
22 1973?  
23 A. In Greenwood, Mississippi.  
24 Q. Doing what?  
25 A. The Department of Public Welfare. I was

1 an eligibility worker.  
2 Q. And how long were you in that position?  
3 A. Roughly five years.  
4 Q. And what did you do for the Department  
5 of Public Welfare?  
6 A. I was an eligibility worker. I  
7 determined initial and ongoing eligibility for age  
8 dependent children.  
9 Q. Are those people covered by the Medicaid  
10 program?  
11 A. At that time, they were.  
12 Q. And what was this litigation about that  
13 caused you to testify in 1973?  
14 A. I can only remember very vaguely. It  
15 was a fraud case. It may have pertained to food  
16 stamps. I also determined eligibility for food  
17 stamps.  
18 Q. Can you remember any of the parties to  
19 the litigation?  
20 A. I cannot.  
21 Q. You were in the Department of Public  
22 Welfare, obviously in 1973. Can you give me a  
23 rough range of when you were there?  
24 A. I was there until, roughly -- it may be  
25 on my resume. I can't remember dates.

1 Q. I don't think it is. That's why I'm  
2 asking you.  
3 A. Until 1978, I believe, 1978.  
4 Q. And what did you do between '78 and the  
5 time you went to college in '81?  
6 A. I stayed home with my children.  
7 Q. Were you employed outside the home  
8 before your job with the -- was it the Department  
9 of Public Welfare?  
10 A. It was. It was the Department of Public  
11 Welfare. Off and on, I did various things.  
12 Q. As an employee in charge -- were you in  
13 charge of eligibility determinations?  
14 A. For a case load.  
15 Q. Briefly, just briefly, tell me what that  
16 entailed.  
17 A. It entailed making home visits to  
18 determine if individuals were living where they  
19 said they were living and in the conditions that  
20 they said they were in, and if the children that  
21 they were receiving AFDC for were, indeed, in the  
22 home, and the father was not in the home.  
23 It also entailed them coming into the  
24 office on a six month and annual, every six months  
25 for a follow-up interview and determination of

Page 302

Page 304

1 eligibility. I had to verify income and a number  
2 of housing, income, educational --  
3 Q. Did you encounter instances of fraud  
4 while you were there?  
5 A. Occasionally.  
6 Q. Was it occasional or was it frequent?  
7 A. In my particular case load, I would say  
8 occasionally.  
9 Q. How many eligibility workers were there  
10 in Greenwood where you were during the time you  
11 were there?  
12 A. Roughly 10.  
13 Q. Did others encounter instances of fraud  
14 more frequently?  
15 A. I don't know about more frequently.  
16 Q. Would you characterize fraud as a  
17 problem when you were there?  
18 A. I would.  
19 Q. A significant problem?  
20 A. I would always consider it a significant  
21 problem.  
22 Q. You were testifying for the Department  
23 of Public Welfare concerning the results of an  
24 investigation you conducted into some alleged  
25 fraud, whether it be food stamps or some other

1 activities reflecting this investigation?  
2 -- A. I cannot recall.  
3 Q. And that's the only instance you can  
4 recall testifying as an expert -- excuse me,  
5 testifying at all?  
6 A. At all.  
7 Q. And you have never testified as an  
8 expert before?  
9 A. Never.  
10 Q. Have you ever been consulted as an  
11 expert in connection with any litigation?  
12 MR. YOUNG: Other than this?  
13 A. Other -- no.  
14 Q. (By Mr. Burton) You look confused. Do  
15 you understand my question?  
16 A. Well, I was just trying to remember.  
17 Q. When were you first contacted by  
18 plaintiffs' counsel in this case?  
19 A. First contacted?  
20 Q. Yes, ma'am.  
21 A. Prior to the records custodian  
22 deposition that I gave in, I believe, January of  
23 1996. Prior to that.  
24 MR. YOUNG: It was probably '95.  
25 MR. BURTON: '96.

Page 303

Page 305

1 fraud in connection with eligibility?  
2 A. It was an investigation that was  
3 conducted. I did not conduct it.  
4 Q. Then what was the purpose of your  
5 testimony?  
6 A. As the case worker, I gave information  
7 that I had at that time.  
8 Q. But someone else conducted the  
9 investigation?  
10 A. I would have to assume so. I did not do  
11 it.  
12 Q. When you detected fraud, would you alert  
13 some state entity or local entity as to the  
14 suspected fraud?  
15 A. When I detected it, I would.  
16 Q. Who would you call?  
17 A. My supervisor.  
18 Q. And do you know what he did with the  
19 information?  
20 A. It was a she, and I don't know exactly  
21 what she did.  
22 Q. Do you know if the investigation was  
23 conducted by state officials or local officials?  
24 A. I don't know.  
25 Q. Were there reports generated of the

1 Q. (By Mr. Burton) How far in advance of  
2 that?  
3 A. Not -- it was just shortly before the  
4 deposition.  
5 Q. And the purpose of that meeting was to  
6 discuss your role as a record custodian; is that  
7 fair?  
8 A. It was to -- I don't know that we  
9 discussed my role as. They told me what to expect  
10 during the deposition.  
11 Q. It was a meeting in preparation for that  
12 deposition?  
13 A. Preparation, yeah.  
14 Q. When were you first asked to be an  
15 expert in this case?  
16 A. It's been a couple of months.  
17 Q. Can you be more specific than that?  
18 A. I can't remember.  
19 Q. Who contacted you about being an expert  
20 in this case?  
21 A. I believe the conversation was between  
22 Ellen O'Neal, Ellen Jones, and I.  
23 Q. Tell me about that conversation.  
24 A. To the best of my recollection,  
25 Ellen O'Neal said that the --



1 MR. YOUNG: I'm going to impose an  
2 objection here on attorney-client basis and  
3 instruct her not to disclose any communications or  
4 substance of communications she may have had with  
5 our law firm regarding this litigation or her  
6 services as an expert. Other than that, you can  
7 testify.

8 Q. (By Mr. Burton) No one from Mr. Young's  
9 office was present during this meeting, were they?

10 A. No.

11 Q. Go ahead and tell me what happened in  
12 this meeting.

13 A. Ellen O'Neal told Ellen Jones and I  
14 individuals were being identified as expert  
15 witnesses. She thought that one or both of us  
16 would be called to be an expert witness, and she  
17 was just alerting us to that.

18 I asked her what that actually entailed,  
19 because I had not ever done it before and didn't  
20 know, and she very briefly told me what would be  
21 required of a person to be an expert witness.

22 Q. What did she tell you?

23 A. That I would be giving my professional  
24 opinion based on professional documents, articles,  
25 data.

1 Q. Was there any discussion about the  
2 topics on which you would give expert testimony  
3 during this meeting?

4 A. She asked Ellen Jones and I to prepare  
5 an expert disclosure statement which Ellen Jones  
6 and I, subsequently, did.

7 Q. Did you and Ellen Jones prepare those  
8 reports separately or collaboratively?

9 A. Collaboratively.

10 Q. When did you prepare those?

11 A. Couple of -- within the last couple or  
12 three months.

13 Q. This meeting with Ellen O'Neal,  
14 Ellen Jones, and yourself was in -- this is  
15 November -- September?

16 A. I could look on my calendar and tell  
17 you, but I can't recall which month to be exact.

18 Q. And that was the first meeting in which  
19 anyone asked you to be an expert?

20 A. Correct.

21 Q. And how soon after that meeting did you  
22 and Ellen Jones prepare these expert disclosure  
23 reports?

24 A. Within a couple of days.

25 MR. BURTON: Mark that.

1 (Exhibit 23 marked for identification.)

2 Q. (By Mr. Burton) The court reporter has  
3 handed you what has been marked as Defendants'  
4 Exhibit 23. Can you identify that for me?

5 A. It's the expert disclosure statement for  
6 Cheryl Grubbs.

7 Q. Is this the one that you prepared in  
8 collaboration with Ms. Jones?

9 A. It appears to be.

10 Q. What did you do with the expert  
11 disclosure report that you prepared?

12 A. That I prepared?

13 Q. Yes, ma'am?

14 A. I gave it to Ellen Jones.

15 Q. Did she make changes to it?

16 MR. YOUNG: If you know.

17 A. I can't remember.

18 Q. (By Mr. Burton) Did she show you hers?

19 A. I don't remember that she showed it to  
20 me. We did discuss it.

21 Q. Did you discuss any areas of your  
22 anticipated testimony that she thought were  
23 appropriate or inappropriate for you?

24 A. No.

25 Q. Did you make any suggestions concerning

1 her anticipated testimony?

2 A. No.

3 Q. After you gave it to Ms. Jones, did you  
4 ever see your expert disclosure statement again?

5 A. I did.

6 Q. When?

7 A. When it was sent back to me from  
8 Ellen O'Neal for a copy for my file.

9 Q. Had it been changed?

10 A. Not that I can recall.

11 Q. Is the expert disclosure statement that  
12 is marked as Defendants' Exhibit 23 the same one  
13 you prepared?

14 A. Now, I've already stated that it appears  
15 to be. As far as I know, it is.

16 Q. As far as you know, this is the one that  
17 you prepared?

18 A. As far as I know.

19 Q. How did you know what areas of testimony  
20 were expected of you in this case?

21 A. That may have been something that we  
22 discussed when Ellen and Ellen and I met.

23 Q. What I'm getting at is you've testified  
24 you've never been an expert witness. You meet  
25 with Ellen O'Neill and Ellen Jones, and your first

1 question is understandable, "What does this  
2 entail?"

3 And she tells you giving your  
4 professional opinion based on documents and  
5 articles and so forth.

6 And then you go off and write an expert  
7 disclosure statement? Did you have anymore  
8 guidance in that as to what areas somebody  
9 expected you to testify in?

10 MR. YOUNG: I'm going to object to  
11 that. Her communications as to what areas or  
12 whatever was expected of her with Ellen O'Neal,  
13 the attorney for the agency, and the State of  
14 Mississippi she's not going to go into. You've  
15 got her expert disclosure. This is what she's  
16 prepared to testify. Now if we can get on with  
17 the questioning of it.

18 MR. BURTON: You're taking the position  
19 that communication she had with Ellen O'Neal  
20 concerning the nature and scope of her testimony  
21 are privileged?

22 MR. YOUNG: Correct.

23 Q. (By Mr. Burton) Did Ms. O'Neill give  
24 you the direction as to the nature and scope of  
25 your testimony, without telling me what that

1 terminology or language pertaining to any disease  
2 that may occur because of tobacco smoke, tobacco  
3 use. I can certainly provide expert opinions  
4 about the efficacy of training programs and can  
5 talk to you about the training programs we've  
6 provided.

7 Q. But you don't consider yourself an  
8 expert in statistics?

9 A. I do not.

10 Q. And you do not consider yourself an  
11 expert in epidemiology?

12 A. I do not.

13 Q. And you do not consider yourself an  
14 expert in any kind of medical terminology?

15 A. No.

16 Q. You do not consider yourself an expert  
17 in any kind of medical language?

18 A. No.

19 Q. Do you consider yourself an expert in  
20 any medical field?

21 A. No.

22 Q. Do you consider yourself an expert on  
23 the causation between tobacco and disease?

24 A. No.

25 Q. Any other areas in which you do not

1 direction was?

2 MR. YOUNG: If you recall.

3 A. I don't believe Ms. O'Neill did.

4 Q. Did someone else?

5 A. Ellen Jones and I discussed it in  
6 detail. And we made the decision to rely on areas  
7 of which I am more comfortable for my statement,  
8 and Ellen will rely on those areas in which she is  
9 more comfortable for her statement. And that  
10 should be reflected in our disclosure statements.

11 Q. Generally, tell me what those areas  
12 are.

13 A. I am more familiar with areas of  
14 prevention activities that occur in schools,  
15 communities, businesses. I'm more familiar with  
16 interventions that I learn about through national  
17 meetings that I attend through working with  
18 tobacco prevention coordinators in other states.

19 I am not a statistician. I'm not  
20 prepared to discuss statistics at any great  
21 detail. And there are certain areas that I just  
22 simply cannot discuss because I'm not an expert in  
23 those areas.

24 Q. What are those areas?

25 A. Statistics is one of them. Medical

1 consider yourself an expert as they relate to your  
2 tobacco prevention activities?

3 A. Well, if I think of any as we go, I will  
4 tell you.

5 Q. Do you consider yourself an expert in  
6 tobacco prevention strategies?

7 A. I do.

8 Q. The whole spectrum of them or just the  
9 efficacy of the interventions that you mentioned  
10 earlier?

11 A. Well, I would need to know what you  
12 consider "the whole spectrum" to be.

13 Q. What do you consider "the whole  
14 spectrum" to be?

15 A. I consider myself an expert in the types  
16 of interventions that we carry on at the State  
17 Department of Health and the Division of Health  
18 Promotion and Education program.

19 Q. What type of interventions are those?

20 A. Those are training programs for  
21 communities and schools.

22 Q. Let's go slow so I can write them down.  
23 Training programs for communities and schools,  
24 okay.

25 A. Coalition development and mobilization.

Page 314

Page 316

1 Q. Okay.  
2 A. Provision of technical assistance and  
3 policy development.  
4 Q. Provision of technical assistance? Is  
5 policy development a separate one or is that part  
6 of the provision --  
7 A. Part of.  
8 Q. So it's provision of technical  
9 assistance and policy development.  
10 A. Uh-huh.  
11 Q. Okay. Any other areas where you  
12 consider yourself an expert?  
13 A. That's it. Well, other than -- would  
14 you like me to read this?  
15 Q. No, we're going to go over this in some  
16 detail. In preparing this expert disclosure  
17 report, did you rely on any materials?  
18 A. No.  
19 Q. Did this from your experience without  
20 access to or reference to any materials?  
21 A. Yes.  
22 Q. Did you ask anyone for any materials in  
23 connection with your anticipated testimony in this  
24 case?  
25 A. Yes, I did.

Page 315

1 Q. Who did you ask and what did you ask  
2 them to provide you?  
3 A. I asked Susan Lloyd to locate an article  
4 that was an MMWR article that I read a month or so  
5 ago.  
6 I asked the Centers for Disease Control  
7 and Prevention for an article that I could not --  
8 that I knew had been published, but I could not  
9 find.  
10 Q. What was the MMWR -- that's Mississippi  
11 morbid --  
12 A. No, that's the --  
13 MR. YOUNG: Morbidity report.  
14 A. "Morbidity and Mortality Weekly Report."  
15 Q. (By Mr. Burton) And what was the  
16 article that Susan Lloyd provided you?  
17 A. It pertained to adolescent use of  
18 tobacco, and it -- it said in the article -- and I  
19 cannot give you specifics because we were not able  
20 to find it, so I was not able to read it prior to  
21 coming today. It talked about the increase in  
22 smoking among young African-American males.  
23 Q. Do you know when this article was  
24 published?  
25 A. Within the last couple of months.

1 Q. Is it Mississippi specific?  
2 A. No.  
3 Q. So this is an article that is surveying  
4 tobacco use among African-American male minors?  
5 A. I believe it was.  
6 Q. But you were unable to find that report?  
7 A. Was unable to find it.  
8 Q. What was the CDC article that you  
9 requested?  
10 A. I wanted information about the FDA  
11 regulations and could not find the particular  
12 article that I was looking for. Ellen Jones and I  
13 both wanted this article. We asked the Office on  
14 Smoking and Health, and they made a -- they  
15 referred us to a document that contained -- a  
16 federal register that contained the information.  
17 Q. What were you looking for?  
18 A. We wanted to -- we wanted to understand  
19 what the President had suggested to determine  
20 whether or not -- we were looking -- the --  
21 there's a proposed rule, and then there's a final  
22 rule. We wanted to read them both and compare  
23 them so we would be familiar with both of them.  
24 Q. These are the rules that have been  
25 proposed by the Clinton administration and the FDA

Page 317

1 concerning the regulation of tobacco as a drug?  
2 A. Correct.  
3 Q. Did you, indeed, receive copies of both  
4 the proposed legislation and the final -- or at  
5 least the draft legislation and the final  
6 legislation?  
7 A. We have them. We did not get them from  
8 CDC. They told us where to find them, and we went  
9 right to the source, and they were in our clearing  
10 house.  
11 Q. Any other documents that you requested  
12 in connection with your testimony here today?  
13 A. I don't believe so.  
14 Q. Are you being compensated for your  
15 testimony here today?  
16 A. Not to my knowledge.  
17 Q. Not separate and apart from your duties  
18 as Tobacco Prevention Control Coordinator?  
19 A. I have no knowledge that I am being.  
20 Q. No discussions with counsel about that?  
21 A. There has been a discussion.  
22 Q. Are you anticipating that you will be  
23 compensated for your testimony here today?  
24 A. I have no way of knowing that.  
25 Q. Have you requested compensation for your

1 testimony?  
2 A. I have not.  
3 Q. Have you been offered compensation for  
4 your testimony?  
5 A. I have not.  
6 Q. What is the nature of these discussions?  
7 A. I was informed that I could be  
8 compensated for it if the Department of Health  
9 approved it or allowed it.  
10 MR. YOUNG: Pursuant to the case  
11 management order, the defendants are to pay the  
12 experts' time for testimony, and we had a brief  
13 discussion about that. Other than that --  
14 Q. (By Mr. Burton) Has the Mississippi  
15 State Department of Health approved or  
16 disapproved?  
17 A. I have no way of knowing that.  
18 Q. Have you completed your work, insofar as  
19 you know, concerning the anticipated testimony  
20 you're going to give in this case?  
21 A. Today?  
22 MR. YOUNG: Wait. I'm going to object  
23 to the form. That's predicated on the fact that  
24 there is ongoing work.  
25 MR. BURTON: Well, what I want --

1 MR. YOUNG: You haven't established that  
2 fact yet.  
3 Q. (By Mr. Burton) You're expected to  
4 testify today as an expert as outlined in your  
5 expert disclosure report, correct?  
6 A. Correct.  
7 MR. YOUNG: No, she's expected to answer  
8 questions on the defendants. Today is not her day  
9 of testimony at trial. She's expected to answer  
10 your questions today regarding her disclosure  
11 statement, and that's what she's expected to do.  
12 MR. BURTON: I understand that.  
13 Q. (By Mr. Burton) And what I want to know  
14 is have you finalized your opinions in this case?  
15 A. I have.  
16 Q. So you have completed the work necessary  
17 to formulate those opinions?  
18 MR. YOUNG: I'm going to object to the  
19 form of the question. That's predicated on the  
20 fact there's ongoing work.  
21 MR. BURTON: Well, Lee, if where we're  
22 going to end up in this thing is we're going to  
23 have expert testimony from Ms. Grubbs today, and  
24 then between now and trial she's going to come up  
25 with additional work, and do additional studies --

1 MR. YOUNG: First of all, she hasn't  
2 said she's done any work. Second of all, she  
3 hasn't said she's done the first work.  
4 MR. BURTON: Why don't you let her  
5 answer the questions then?  
6 MR. YOUNG: Well, you haven't asked  
7 that. You predicated on that she's ongoing doing  
8 this stuff where you've never even asked her is  
9 she doing anything first.  
10 MR. BURTON: Why don't just let her  
11 answer the questions, because I think my  
12 questions --  
13 MR. YOUNG: If you'll ask the proper  
14 questions.  
15 MR. BURTON: You're not going to dictate  
16 to me how I ask the questions. If you want to  
17 instruct her not to answer, you can.  
18 MR. YOUNG: Ask your question.  
19 Q. Have you finalized your work, as far as  
20 you know, in connection with your expert testimony  
21 in this case?  
22 A. The work that I've done in preparation  
23 for this is the work that I do on an ongoing basis  
24 every day day-in-and-day-out. It has not been  
25 finalized because I'm still employed as the

1 Tobacco Prevention Coordinator.  
2 Q. Do you anticipate doing additional work  
3 after today in connection with your anticipated  
4 testimony in this case?  
5 A. I anticipate continuing my job.  
6 Q. Do you anticipate that your opinions in  
7 this case are going to change within the next six  
8 months?  
9 A. I seriously doubt that.  
10 Q. Why?  
11 A. Because I do not believe there's going  
12 to be a shift in tobacco prevention and control  
13 efforts that would cause me to change my opinion.  
14 Q. But in the next six months you very well  
15 may learn of additional information which you  
16 think supports your opinions in this case?  
17 A. I certainly may.  
18 Q. Do you plan on disclosing that or giving  
19 us another opportunity to depose Ms. Grubbs in  
20 connection with that?  
21 MR. YOUNG: If the defendants are  
22 ongoing turning over documents in this case, and  
23 Ms. Grubbs has an opportunity to look at those  
24 documents that may very well strengthen her  
25 opinions that she gives in this case from

1 documents provided by the defendants.

2 No, we're not going to make her  
3 available again for a deposition.

4 MR. BURTON: So even if the basis for  
5 her opinions changes, Lee, it is the State's  
6 position that we're not entitled to depose her  
7 again?

8 MR. YOUNG: I'm saying you've got your  
9 shot today. If y'all are continuing to produce  
10 documents in this case she may be asked about  
11 those documents and whether that alters or changes  
12 her opinions at trial. If that were the case,  
13 then we would have the to redepose everybody 50  
14 million times, which we're not going to do.

15 MR. BURTON: What does the defendants'  
16 production of documents have to do with this? The  
17 woman has said she's going to continue her work  
18 over the next six months.

19 MR. YOUNG: That's right.

20 MR. BURTON: And she's acknowledged that  
21 the basis for her opinions, therefore, may very  
22 well change over the next six months.

23 MR. YOUNG: No, I think she said that  
24 they probably would not change.

25 MR. BURTON: Said her opinions would not

1 change. I think she said that the basis for her  
2 opinions is likely to change.

3 MR. YOUNG: I don't think she said  
4 that. Nevertheless, she's going to be reviewing  
5 documents probably by the defendants too, as they  
6 become available in production. So -- and that's  
7 disclosed in her disclosure statement.

8 MR. BURTON: Well, we're not going to  
9 resolve it today. I think it's something we're  
10 going to have to take up to the Court because I  
11 think it's fundamentally unfair to offer the woman  
12 up as an expert witness here today based on  
13 limited work that she's done over the past few  
14 years. And then between now and trial show her a  
15 whole bunch of other information.

16 MR. YOUNG: I'm not saying she's going  
17 to be shown anything. I'm saying that any expert  
18 is entitled to look at what's being produced in a  
19 case. The fact that nothing's been produced until  
20 today, she can't help that.

21 (A short break was taken.)

22 Q. Ms. Grubbs, I want to clear up something  
23 we were talking about before we took a break, and  
24 then move on. You said, if I understood you  
25 correctly, that you expected to continue to do

1 work that would be supportive of the opinions that  
2 you express today, correct?

3 A. Correct.

4 Q. And to the extent that you learn new  
5 information in the next six months that would  
6 support these opinions, you expect to rely on that  
7 new information in connection with your testimony;  
8 do you not?

9 A. Correct.

10 MR. BURTON: Lee, I'm going to reserve  
11 the right. I understand you disagree, but I'm  
12 going to reserve the right to redepose this  
13 individual before trial.

14 MR. YOUNG: Okay. Let me explain for  
15 the record. And I think Ms. Grubbs, you may  
16 address this, whatever you like.

17 When she talks about new information,  
18 she's talking about if a new BRFS study comes out  
19 in the interim. There's all types of medical  
20 literature, national literature coming out all the  
21 time. If that further supports her opinions, then  
22 yes, she's going to rely on that.

23 But she can make her opinions as they  
24 exist today, and any expert opinion is subject to  
25 change prior to trial just because of the release

1 or new studies or new information.

2 MR. BURTON: And when an expert witness'  
3 opinions change, there's usually an agreement  
4 among counsel that they can they can be redeposed  
5 with respect to the new basis for the change in  
6 their testimony.

7 MR. YOUNG: If her opinions change.

8 MR. BURTON: Or the new basis for the  
9 opinions. I know we're not going to resolve it  
10 today. I just want the record clear that we're  
11 reserving the right to redepose Ms. Grubbs at a  
12 later date based on additional information that  
13 she concludes is supportive of her opinions.

14 MR. YOUNG: If there is.

15 MR. BURTON: Correct.

16 MR. YOUNG: We would object to the  
17 reconvention of the deposition. Let's go on.

18 Q. (By Mr. Burton) Does Exhibit 23,  
19 Ms. Grubbs, refer to all the subject matters on  
20 which you expect to testify in this case?

21 A. Today, yes.

22 Q. Now, you say "today," what do you mean  
23 by that? Do you mean at a later date you may be  
24 expected to testify on other subject matters?

25 A. I have no idea if I'll be expected to

1 testify at a later date on anything.  
2 Q. As you sit here today, that represents,  
3 as far as you know, all of the subject matters on  
4 which you're expected to testify?  
5 A. That is correct.  
6 Q. So stated differently, as you sit here  
7 today, there are not any other subject matters  
8 other than those shown on that list about which  
9 you expect to testify?  
10 A. Correct.  
11 Q. How much time have you spent preparing  
12 for your testimony in this case?  
13 A. I have spent limited, if any,  
14 specifically for this case. I have continued to  
15 do my job, and am going to rely on what I do on a  
16 daily basis to provide my expert opinion today.  
17 Q. Have you met with counsel in preparation  
18 of your testimony here today?  
19 A. Prior to it, no.  
20 Q. So prior to --  
21 A. Yesterday.  
22 Q. -- yesterday, you had not met with  
23 counsel in preparation of your testimony in this  
24 case?  
25 A. I had not.

1 Q. How long did you meet with counsel  
2 yesterday?  
3 A. During breaks, periodically, throughout  
4 the day and at lunch.  
5 Q. That's the extent to which you've  
6 conferred with counsel about your testimony in  
7 this case?  
8 A. It is. There was a telephone  
9 conversation in preparation prior to -- on Tuesday  
10 before I came here on Wednesday.  
11 Q. And who were parties to that  
12 conversation?  
13 A. Ellen O'Neal, Ellen Jones, Dr. Courier,  
14 Lee and Dana and Charles were on the phone in  
15 their office. It was about a 20 minute phone  
16 conversation.  
17 Q. And what was the general nature of the  
18 conversation?  
19 MR. YOUNG: I'm going to object.  
20 Attorney-client privilege, instruct her not to  
21 answer.  
22 MR. BURTON: Even as to subject matter?  
23 MR. YOUNG: Yeah.  
24 Q. (By Mr. Burton) Have you reviewed the  
25 testimony of any other expert witnesses in this

1 case?  
2 MR. YOUNG: Expert.  
3 A. I don't know if it was -- I read a  
4 transcript from Dr. Ed Thompson's deposition that  
5 was taken on Tuesday of last week.  
6 Q. (By Mr. Burton) Did you read anything  
7 else in connection with your testimony today, any  
8 other testimony?  
9 A. No, I did not.  
10 Q. Did anybody tell you what other  
11 witnesses had said in this case?  
12 A. No.  
13 Q. Did you read anything in Dr. Thompson's  
14 deposition that you disagreed with?  
15 A. Not that I recall.  
16 Q. Other than the transcript from  
17 Dr. Thompson's testimony, have you reviewed any  
18 other documents that describe what other witnesses  
19 have said in this case?  
20 A. No.  
21 Q. Let's look at Exhibit 23 which is your  
22 disclosure. You say you are expected to give, "A  
23 review of the nature and history of the Tobacco  
24 and Prevention and Control Program in  
25 Mississippi." Is that correct?

1 A. That's correct.  
2 Q. Tell me what that nature and history  
3 that you expect to testify about is.  
4 A. From the time that I started working in  
5 the Tobacco Prevention Program in 1991, we have  
6 conducted a statewide program that consists of  
7 training teachers, training students in methods of  
8 tobacco prevention and in cessation.  
9 We have developed tobacco prevention and  
10 control materials which we distribute through the  
11 State Department of Health's central supply  
12 distribution center.  
13 I have worked with a number of groups  
14 and organizations, associations whose primary  
15 focus are prevention activities, to increase  
16 awareness of tobacco as a drug among those groups  
17 and associations.  
18 We have written grants and received  
19 funding that comes through the State Department of  
20 Health for the development of the Mississippi  
21 Tobacco-Free 2000 Coalition for increased staff in  
22 the Tobacco Prevention Program at the State  
23 Department of Health.  
24 We have also written grants and received  
25 funding for tobacco prevention conference -- youth

1 conference that was held in 1994.

2 I have assisted on the development of  
3 original youth tobacco conference support grant  
4 that was funded in 1996.

5 The staff in the Tobacco Prevention  
6 Control Office collaborates with other offices and  
7 divisions within the State Department of Health.  
8 In particular, we collaborate with the Maternal  
9 and Child Health Division, provide training with  
10 them, attend workshops with them, share  
11 information that we receive that relates to  
12 smoking and pregnant patients with them.

13 We attend national conferences at least  
14 once a year to stay abreast of what's going on  
15 nationally in tobacco prevention and control.

16 We have collaborated with the  
17 Mississippi State Department of Mental Health, the  
18 Attorney General's office on a limited basis,  
19 with -- with other nonprofit agencies in Jackson  
20 and throughout the State to develop programs that  
21 pertain to youth tobacco prevention or cessation.

22 Q. Is that it?

23 A. Generally.

24 Q. The history you anticipate giving in  
25 this case will commence in 1991?

1 A. I worked for a brief period of time in  
2 1989 for six -- I believe it was 1989 for six  
3 months in what was then the Office of Health  
4 Promotion and Education in the role of Tobacco  
5 Prevention Coordinator. I can talk about the  
6 activities that occurred in that six-month period  
7 of time. Beyond that, I cannot discuss the  
8 history of the program, because I wasn't there.

9 Q. So you are not going to testify about  
10 the nature and history of the Tobacco Prevention  
11 and Control Program in Mississippi before you  
12 arrived, I believe, in May of 1990?

13 A. I'm not.

14 Q. And during the first six months you were  
15 there, I believe we established yesterday that you  
16 spent most of your time writing an ASSIST grant;  
17 is that correct?

18 A. That's correct.

19 Q. And that is a grant that you did not  
20 receive?

21 A. That is correct.

22 Q. Other than writing the ASSIST grant,  
23 what else do you anticipate testifying about as an  
24 expert in this case concerning the tobacco  
25 prevention and control efforts in Mississippi

1 Q. What does SWEEPS stand for?

2 A. It stands for Statewide Education and  
3 Enforcement something.

4 Q. When you took this position in 1990, you  
5 had no training in Tobacco Prevention Control,  
6 correct?

7 A. That's correct.

8 Q. And, I believe, we established yesterday  
9 that you did not take any formal training to  
10 educate you in how to go about your job as a  
11 Tobacco Prevention Control Coordinator?

12 A. That's correct.

13 MR. YOUNG: "Formal" meaning school?

14 MR. BURTON: Yes.

15 A. I know of no school that provides that  
16 training.

17 Q. (By Mr. Burton) And the informal  
18 training you had to assist you in that job was one  
19 seminar?

20 A. The first six months that I worked in  
21 Tobacco Prevention I attended one seminar.

22 MR. YOUNG: That's informal, and she  
23 also testified yesterday that she had on-the-job  
24 training.

25 -- A. I had on-the-job training.

Page 334

Page 336

1 MR. BURTON: Lee, the witness can  
2 testify. If you want to object, that's fine. But  
3 the case management order bars -- If you want to  
4 clear something up after-the-fact, that's fine,  
5 but I don't want you answering for the witness.  
6 Q. (By Mr. Burton) In this first six  
7 months, you also said you were expected to testify  
8 about creating awareness among youth as to the  
9 risks of tobacco; is that correct?  
10 A. I was expected to testify?  
11 Q. I thought that's what you just said, is  
12 that you expected to testify about your activities  
13 creating awareness among youth.  
14 A. I misunderstood your question.  
15 Q. Which question did you misunderstand?  
16 A. That one that you just asked. Restate  
17 it for me.  
18 Q. Do you anticipate at trial testifying  
19 about the activities of the Mississippi State  
20 Department of Health between 1990 and -- excuse  
21 me, May of 1990 and November of 1990 concerning  
22 creation of awareness among youth?  
23 A. I do.  
24 Q. And what do you expect to testify on  
25 that topic?

Page 335

1 A. To be specific about the activities that  
2 I conducted during that year?  
3 Q. Yes, ma'am.  
4 A. I met with several schools during that  
5 year. I provided information to schools. We, at  
6 that time, at the State Department of Health had a  
7 couple of fact sheets that were distributed  
8 broadly throughout the State that pertained to  
9 smoking and cancer and tobacco use.  
10 Q. These are fact sheets that have been  
11 produced in this case?  
12 A. I don't know if they've been produced or  
13 not. They're no longer -- they are out of date,  
14 and they have been replaced. I no longer have a  
15 copy of them.  
16 Q. These would be fact sheets prepared by  
17 the Mississippi State Department of Health?  
18 A. They were. They were prepared, I  
19 believe, in the Chronic Disease Program before I  
20 became employed there.  
21 Q. And these were disseminated to the  
22 schools directly?  
23 A. They were disseminated through the  
24 Department of Education, if I recall correctly,  
25 and to individuals who called the office and asked

1 for specific information. During that six-month  
2 period of time, I also worked with a number of  
3 State agencies in the development of no smoking  
4 policies.  
5 We offered a smoking cessation  
6 facilitator program to which several state  
7 agencies sent staff. And individuals from private  
8 industry also attended that.  
9 Q. The no smoking policies that you were  
10 urging, in what state agencies were they focused?  
11 A. The Department of Transportation, I  
12 worked with them on -- the Department of Public  
13 Safety requested some information.  
14 Q. How about the schools?  
15 A. The State -- the Department of  
16 Corrections had requested information at that  
17 time. Schools, I -- I cannot recall.  
18 Q. Do you know if the Department of  
19 Corrections currently has a smoking policy?  
20 A. I do not know.  
21 Q. So you can't assess whether or not you  
22 were successful in your efforts in urging the  
23 Department of Corrections to adopt a smoking  
24 policy?  
25 A. I did not urge the Department of

Page 337

1 Corrections to adopt a smoking policy. They  
2 called and asked for information, and I recall  
3 providing it.  
4 What we also provided was smoking  
5 cessation facilitator training, and the staff that  
6 came did successfully complete that.  
7 Q. From the Department of Corrections?  
8 A. From the Department of Corrections.  
9 Q. Did I understand you correctly to say  
10 you did not urge the Department of Corrections to  
11 adopted a smoking policy?  
12 A. I did not urge.  
13 Q. Why?  
14 A. I don't feel like it's in my -- the  
15 scope of my job to urge state agencies to adopt  
16 policies.  
17 Q. You're the Tobacco Prevention Control  
18 Coordinator for the State of Mississippi, correct?  
19 A. Correct.  
20 Q. And your goal is to reduce smoking in  
21 the State of Mississippi?  
22 A. Correct.  
23 Q. And yet you don't believe it's in your  
24 job description to urge any state agency to adopt  
25 a smoking policy? --



1 A. That was -- I don't believe it is.  
 2 Q. Well, how is it that you go about  
 3 accomplishing your goal of reducing smoking in the  
 4 State of Mississippi if you do not urge state  
 5 agencies to do things such as adopting no smoking  
 6 policies?  
 7 MR. YOUNG: I'm going to object as  
 8 argumentative. You can ask her what she does,  
 9 what her duties are. And she's told you yesterday  
 10 and the first part of today.  
 11 A. Well, I would like for you to define  
 12 "urge" for me first of all. Maybe we're not --  
 13 Q. (By Mr. Burton) What does it mean to  
 14 you?  
 15 A. To me it means that I actively seek an  
 16 agency and badger them to do something.  
 17 Q. Well, how is it that you hope to  
 18 accomplish your goal?  
 19 A. I let the public know -- through the  
 20 Division of Health Promotion and Education, we let  
 21 the public know that we have programs to offer.  
 22 We provide our name, a variety of  
 23 programs that we have and a brief overview of  
 24 those programs.  
 25 Q. So it's largely passive in nature in the

1 sense that you advise state agencies of the  
 2 existence of programs, but you do not actively  
 3 suggest to them that they participate in those  
 4 programs?  
 5 A. I do not actively go into state agencies  
 6 and suggest to them, no.  
 7 Q. Does anyone from the Mississippi State  
 8 Department of Health actively suggest that any  
 9 other state agency adopt any procedure as it  
 10 relates to tobacco prevention in the State of  
 11 Mississippi?  
 12 A. Not that I'm aware of.  
 13 Q. So it's fair to say that the role of the  
 14 Tobacco Prevention Control Coordinator in  
 15 Mississippi is passive?  
 16 A. What do you mean by "passive"?  
 17 Q. Does not get actively involved in  
 18 suggesting to state agencies that they adopt  
 19 smoking policies or take steps to reduce smoking  
 20 within the State of Mississippi?  
 21 MR. YOUNG: Object to the form. Are you  
 22 limiting that just to state agencies, passive as  
 23 to state agencies or passive as to their education  
 24 efforts with schools and everything else.  
 25 MR. BURTON: I'm asking as to state

1 agencies, schools, whatever.  
 2 -- A. If you're asking me am I passive in that  
 3 I do not go into businesses, agencies,  
 4 organizations and encourage them, you're correct.  
 5 I do not make cold calls on agencies, businesses  
 6 or organizations and require or ask of them  
 7 anything.  
 8 When I am contacted, I then provide as  
 9 much assistance as I possibly can to them.  
 10 Q. (By Mr. Burton) But until you're  
 11 contacted, you don't have anything to do with a  
 12 given agency or a school or whatever the case may  
 13 be?  
 14 A. This is true.  
 15 Q. Have we covered everything you expect to  
 16 testify about the nature and history of the  
 17 tobacco prevention effort in the six months  
 18 between 1990 and 1991?  
 19 A. Generally, I believe we have.  
 20 Q. Anything of significance that we've left  
 21 out?  
 22 A. I can't recall anything of significance  
 23 that we've left out.  
 24 Q. Starting in 1991, the first thing, at  
 25 least according to my notes, is you say you have

1 conducted statewide programs concerning tobacco  
 2 prevention and control; is that correct?  
 3 A. That's correct.  
 4 Q. What are those programs?  
 5 A. I have -- I have worked with other state  
 6 agencies such as the State Department of  
 7 Education. I have provided training to a number  
 8 of employees of that agency.  
 9 Q. Are these -- because number two on my  
 10 list was "Training programs for teachers." Are  
 11 these, essentially, the same thing that you're  
 12 talking about or are they different?  
 13 A. I've provided training programs to  
 14 teachers, to safe and drug-free school  
 15 coordinators, to coaches.  
 16 Q. Is this a formal training program?  
 17 A. It's a two-hour training program.  
 18 Q. And what is it training teachers to do?  
 19 A. Makes them -- it's an awareness  
 20 program. It hopefully creates an awareness among  
 21 them of the -- the number of youth in Mississippi  
 22 and throughout the nation who are using tobacco  
 23 products, how young youth are when they start  
 24 smoking, the strategies that are being used around  
 25 the country and throughout the State to prevent

1 youth from starting to smoke or to create an  
2 environment in which they will be able to stop  
3 using tobacco products.

4 Q. And is this a two-hour training program  
5 that you conduct the same training program over  
6 and over again?

7 A. Typically. You know, I may change it a  
8 little bit depending on the target audience, but  
9 typically, it's the same.

10 I have gone into colleges and  
11 universities. I have gone into elementary and  
12 kindergarten schools and conducted programs.

13 There was a program, at one point in  
14 time, called "Chase the Camel." We chased the  
15 camel out of Mississippi. We chased the camel to  
16 Washington, D.C.

17 Q. This two-hour training course is  
18 designed to increase the awareness of the number  
19 of youth that smoke, and initiatives or strategies  
20 that help reduce their smoking?

21 A. Would you repeat that?

22 MR. BURTON: Could you read that back.

23 (Record read.)

24 A. It's designed for that. It's also  
25 designed to show how the tobacco -- the

1 Q. "Those" being the people that are at  
2 this training program?

3 A. The participants in the training  
4 program.

5 Q. Is there any pattern to the ideas that  
6 they come up with to reduce access?

7 A. There has been.

8 Q. What are their suggestions?

9 A. They typically want to go immediately  
10 and talk to restaurants in the area and encourage  
11 them to not allow smoking.

12 And they also want to talk to merchants  
13 in the area and encourage them not to sell tobacco  
14 products to minors, making them aware of the law  
15 that we have in Mississippi stating that it is  
16 illegal to sell to minors.

17 Q. In distributing materials statewide, do  
18 you or does the Mississippi State Department of  
19 Health distribute any materials to merchants  
20 advising them of the existence of this law?

21 A. We have not.

22 Q. Have you distributed materials to any  
23 merchants suggesting that they card individuals  
24 who appear to be minors from purchasing  
25 cigarettes?

1 advertising from the tobacco industry appeals to  
2 youth, which is a factor that I believe encourages  
3 youth to begin smoking.

4 Q. (By Mr. Burton) Do you consider  
5 yourself an expert in advertising?

6 A. No, I do not.

7 Q. And this two-hour training session is  
8 the same essential training session to teachers or  
9 other target audiences?

10 A. Essentially.

11 Q. How many times have you --

12 A. Dozens.

13 Q. What are the strategies that you teach  
14 during these training sessions that effectively  
15 decrease youth's smoking?

16 A. Each individual identifies at least one  
17 method that they can implement within their school  
18 or community when they leave the training that  
19 will have a positive influence on reducing access  
20 of tobacco by youth and/or reduce exposure of  
21 environmental tobacco smoke.

22 Q. Do you give them several options to  
23 reduce access to products?

24 A. No, they identify those options  
25 themselves.

1 A. I have not.

2 Q. Has the Mississippi State Department of  
3 Health distributed any such materials?

4 A. Not to my knowledge.

5 Q. Is there a reason why the Mississippi  
6 State Department of Health is not distributing  
7 materials to merchants advising them of the  
8 existence of this law or advising them of the need  
9 to card individuals who appear to be minors?

10 A. We're not a regulatory agency for  
11 tobacco prevention -- for tobacco sales.

12 Q. What do you mean you're not a regulated  
13 industry?

14 MR. YOUNG: Regulatory.

15 Q. (By Mr. Burton) What do you mean you're  
16 not a regulatory agency?

17 A. We do not enforce that law. That is not  
18 our -- that is not in the scope of my job.

19 Q. You don't view it in the scope of your  
20 job simply to send materials to merchants that  
21 say, in substance, "Merchant, please be aware that  
22 we've had a law on the books for X that says you  
23 can't sell cigarettes to minors, and here are some  
24 suggested ways to prevent minors from purchasing  
25 cigarettes?"

Page 346

Page 348

1 MR. YOUNG: Object to the form. It's  
2 been asked and answered.  
3 Q. (By Mr. Burton) You may answer.  
4 MR. YOUNG: You can answer.  
5 A. It has not been done. It very -- it  
6 possibly could be done. It has not been done.  
7 Q. (By Mr. Burton) Any other strategies  
8 other than going to merchants and telling them not  
9 to sell cigarettes to minors or going to  
10 restaurants and asking them to adopt smoking  
11 policies that have come out of these training  
12 sessions as means to reduce youth smoking or  
13 exposure to environmental tobacco smoking in  
14 Mississippi?  
15 A. Occasionally there's the mention that  
16 they're going to talk to their legislator about a  
17 bill that they, specifically, have in mind that  
18 they want to see produced.  
19 Q. And when that suggestion is made, what  
20 do you tell them?  
21 A. I don't tell them anything. The  
22 strategies that people at these training sessions  
23 develop are their strategies. They can leave with  
24 those and go and do what they will with them. My  
25 goal is to get them thinking of things that they

Page 347

1 can do before they go to bed at night.  
2 Q. Are there active strategies that the  
3 Mississippi State Department of Health endorses to  
4 reduce youth smoking in Mississippi?  
5 A. There are.  
6 Q. What are they?  
7 A. We endorse the education of everyone.  
8 We endorse the education of youth. We endorse the  
9 education of adults.  
10 We very much endorse the concept that  
11 medical professionals counsel with patients to  
12 encourage them not to smoke or use tobacco  
13 products or to stop using tobacco products.  
14 Q. Are those the strategies used by the  
15 Mississippi State Department of Health?  
16 A. Correct.  
17 Q. Have those strategies been successful in  
18 Mississippi?  
19 A. What do you mean by "successful?"  
20 Q. What does it mean to you?  
21 A. It can mean a number of things to me. I  
22 don't know how to answer your question.  
23 Q. Well, have you done your job?  
24 MR. YOUNG: I object to the form.  
25 That's argumentative. If you've got a question

1 for her, ask her the question. She's testified  
2 she's continually doing her job.  
3 Q. (By Mr. Burton) Do you feel like you've  
4 accomplished your goals?  
5 A. I feel like I am in the process of  
6 accomplishing my goals. My goal will be  
7 accomplished when no one uses tobacco in this  
8 State.  
9 Q. Has youth smoking prevalence gone down  
10 since 1990 in Mississippi?  
11 A. I cannot address "since 1990."  
12 Q. Why not?  
13 A. Because I'm not familiar with all the  
14 years between now and 1990.  
15 Q. Are there years in there with which you  
16 are familiar?  
17 A. There are.  
18 Q. And what are those years?  
19 A. 1993 and 1995.  
20 Q. Did youth smoking go down in '93 and  
21 '95?  
22 A. It did not.  
23 Q. Has there been a reordering of your  
24 priorities as Mississippi State Tobacco Prevention  
25 Control Coordinator as a result of the fact that

Page 349

1 youth smoking statistics appear not to be going  
2 down?  
3 A. That is in the process of happening  
4 within the next couple of months. We only got the  
5 data recently.  
6 Q. Okay. We talked about these training  
7 programs that you've done dozens of times  
8 throughout the State to teachers and other target  
9 audiences.  
10 Are there other statewide programs that  
11 you've conducted during your tenure as Mississippi  
12 State Department of Health Tobacco Prevention  
13 Control Coordinator?  
14 A. I have worked with the American Cancer  
15 Society on some state level programs through  
16 dissemination of information, through the  
17 Smoke-Free Class of 2000 project that involved  
18 over 2,000 youth. This was in 1994 or '95, I  
19 believe, 1994.  
20 I have worked with the American Cancer  
21 Society and Keesler Air Force Base.  
22 Q. I'm sorry. What was the Air Force Base?  
23 A. Keesler Air Force base, on a project  
24 that might not be considered statewide, but it was  
25 a large project.

Page 350

Page 352

1 Q. The first project with the ACS that was  
2 statewide was what?  
3 A. The Smoke-Free Class of 2000.  
4 Q. That's the coalition that we spoke about  
5 yesterday?  
6 A. No, that is a class of children.  
7 They're in the 8th or 9th grade this year.  
8 Children who will graduate in the year 2000.  
9 Heart, Lung, and Cancer started them in  
10 the first grade, and have watched them all the way  
11 through school anticipating that they will  
12 graduate smoke-free.  
13 I have worked with the three agencies on  
14 a number of projects that involve the Smoke-Free  
15 Class of 2000, a large project in either 1994 or  
16 1995.  
17 I have worked on another statewide  
18 initiative around the Great American Smoke-Out  
19 each year.  
20 Q. Okay.  
21 A. I have worked with the DREAM, the  
22 association -- nonprofit association I talked  
23 about yesterday, going around the State in, I  
24 believe, it was 1994 as well, providing training  
25 and information to a number of cities and counties

Page 351

1 throughout the State.  
2 I take materials to statewide  
3 conventions and associations, set up display  
4 booths and provide information and share  
5 information with people as they come through.  
6 Q. Are these materials developed by the  
7 Mississippi State Department of Health?  
8 A. They are.  
9 Q. And those are among the materials that  
10 were produced in this case?  
11 A. They are.  
12 Q. When you described the history and the  
13 nature and history of the Tobacco Prevention  
14 Control program, one of this things you mentioned  
15 was working with groups and associations whose  
16 focus is to increase awareness through tobacco to  
17 drugs. Are those the activities that you just  
18 described for me?  
19 A. Some of them are.  
20 Q. Are there others?  
21 A. Through the --  
22 Q. I know about the Smoke-Free 2000  
23 Coalition.  
24 A. Okay.  
25 Q. Are there others beyond that?

1 A. There are.  
2 Q. And what are they?  
3 A. The MEPC, the Mississippi Executive  
4 Prevention Council.  
5 Q. Okay. What does it do?  
6 A. It's an ad hoc group of agencies and  
7 individuals primarily from the Jackson area whose  
8 mission is -- centers around prevention of drugs  
9 and alcohol and violence prevention.  
10 Q. Okay. Are there others?  
11 A. I can't think of others.  
12 Q. Looking back at Exhibit 23, it says you  
13 "...expect to describe the programs which have  
14 been introduced into the schools, workshops,  
15 communities, and clinics to reduce tobacco use."  
16 Do you see that?  
17 A. I do.  
18 Q. Does that accurately describe what you  
19 expect to testify about?  
20 A. It does.  
21 Q. I want to do these one at a time. Tell  
22 me the programs which have been introduced in the  
23 schools to reduce tobacco use.  
24 A. We developed a training program a couple  
25 of years ago titled "Tobacco Road: It's a Dead

Page 353

1 End." That program was conducted at four sites  
2 throughout the State. Approximately 500 people  
3 attended, both teachers, adults, and students.  
4 Q. Was it done at like a PTA meeting?  
5 A. No, it was done -- it was a one-day  
6 training program at each site.  
7 Q. And had individuals from various  
8 schools?  
9 A. Attended it.  
10 Q. Were they elementary -- elementary,  
11 middle, and high schools?  
12 A. They were high school, I believe. There  
13 were no elementary.  
14 Q. Okay. One-day seminar?  
15 A. One-day seminar at each site.  
16 Q. Taught by you?  
17 A. No, there was a group of people. We  
18 contracted with DREAM, and DREAM staff developed  
19 the training based on our advice and assistance  
20 with our input -- "our" being the Tobacco  
21 Prevention Program and the State Department of  
22 Health.  
23 Q. Were the materials used in these  
24 programs produced in this case?  
25 A. Most of them were produced in this case.

1 Q. Can you identify ones that weren't as  
2 you sit here?

3 A. If I could see the materials, I could  
4 tell you. I don't know that any were not. Oh,  
5 produced, I'm sorry. Yeah, that's all been  
6 produced to you.

7 Q. Other than the "Tobacco Road: It's a  
8 Dead End" program, are there other programs that  
9 have been introduced by the Mississippi State  
10 Department of Health in schools?

11 A. "Introduced" is not the correct word,  
12 but we have worked closely with the American  
13 Cancer Society, once again, on the Smoke-Free  
14 Class of 2000 program.

15 We have also had participation by some  
16 schools, youth from some schools and the  
17 Mississippi Tobacco-Free 2000 Coalition.

18 There is a program called "Teams as  
19 Teachers" which was developed by Americans for  
20 Nonsmokers' Rights in California, staff from the  
21 Tobacco Prevention program, an individual who is  
22 the cochair of the Mississippi Tobacco-Free 2,000  
23 Coalition, and teams from several schools in  
24 Jackson attended a conference in Orlando, Florida  
25 this summer. Those teams have returned and are in

1 Camel chases, as I understand it, continue to be  
2 conducted, but they're no longer facilitated by  
3 the Health Department. We got the program  
4 started, and it has developed a life of its own as  
5 was intended.

6 Q. These fact sheets were disseminated  
7 when?

8 A. They're periodically disseminated.

9 Q. But upon request, correct?

10 A. Sometimes, yes, upon request. And when  
11 we make presentations to teachers, we take large  
12 numbers of fact sheets and disseminate them.

13 Q. Is there any program within the  
14 Mississippi State Department of Health that  
15 contemplates or actually involves the  
16 dissemination of materials concerning tobacco  
17 prevention and control directly to schools on any  
18 kind of regular basis, even if it's unsolicited?

19 A. No.

20 Q. If I remember correctly from the  
21 testimony yesterday, the Mississippi State  
22 Department of Health has not approached school  
23 boards throughout the State to suggest the  
24 adoption of no smoking policies?

25 A. Correct.

1 the process of conducting the "Teens as Teachers"  
2 programs with their peers in schools.

3 Q. So -- is that it, as far as you can  
4 remember?

5 A. Pretty much.

6 Q. So if I understand it correctly, it's  
7 one formal program called "Tobacco Road: It's a  
8 Dead End" that was introduced by the Mississippi  
9 State Department of Health. And then there have  
10 been three programs -- one, the Smoke-Free 2,000,  
11 and two others involving youth participation in  
12 which you have assisted in training.

13 Does that fairly describe the efforts of  
14 the Mississippi State Department of Health insofar  
15 as programs introduced in schools to reduce  
16 tobacco use?

17 A. That and the dissemination of the fact  
18 sheets and the coloring/activity books that we've  
19 developed at the State Department of Health that  
20 have been provided to schools, along with the  
21 smoke-free schools signs that we developed for  
22 schools at the request of a number of schools,  
23 along with the camel chase programs. Camel chases  
24 were conducted at approximately 10 schools  
25 throughout the State over a period of two years.

1 Q. And the state -- the Department of  
2 Education did not have any statewide policy with  
3 respect to the existence of smoking policies until  
4 1994?

5 A. What was the question?

6 Q. There was no statewide policy concerning  
7 smoking on school property until 1994?

8 A. I don't know.

9 MR. YOUNG: You said by the Department  
10 of Ed?

11 Q. (By Mr. Burton) By the Department of  
12 Education?

13 A. I don't know.

14 Q. Are you aware of -- other than the  
15 federal mandated policy in 1994 -- any statewide  
16 policy preventing or limiting or restricting the  
17 use of tobacco products in high schools throughout  
18 Mississippi?

19 A. I don't know.

20 Q. You haven't participated in any such  
21 program?

22 A. I have not.

23 Q. From your experience as a Tobacco  
24 Prevention Coordinator, does the existence of  
25 smoking policies and the restrictions of smoking

Page 358

Page 360

1 to certain areas have an impact on consumption?  
2 A. The literature that I have read  
3 indicates that it does.  
4 Q. Do you agree with that?  
5 A. Individuals that I have talked to  
6 indicate that it does.  
7 Q. Do you agree with those conclusions?  
8 A. At this time, I do.  
9 Q. Why, then, has the Mississippi State  
10 Department of Health not taken any efforts or made  
11 any efforts to suggest that such policies be  
12 enacted in schools throughout the State of  
13 Mississippi?  
14 MR. YOUNG: If you know.  
15 A. I cannot speak for the State Department  
16 of Health.  
17 Q. (By Mr. Burton) Why haven't you  
18 suggested it?  
19 A. Because it's my understanding that there  
20 is a policy out there under the Pro Children's  
21 Act.  
22 Q. Do you think that's adequate?  
23 A. I do.  
24 Q. And that was adopted in 1994?  
25 A. I believe it was.

Page 359

1 Q. Did you suggest the adoption of the  
2 program prior to 1994?  
3 A. A statewide program? I don't know that  
4 I did.  
5 Q. Let's talk about work sites for a  
6 minute.  
7 MR. YOUNG: She wasn't through with her  
8 answer, I don't think.  
9 Q. (By Mr. Burton) I'm sorry, I thought we  
10 covered everything on schools.  
11 A. There were two other things I want to  
12 mention to you. I have -- in the process of  
13 working with Mississippi College School of  
14 Nursing, the students there are taking information  
15 that I am providing to them relating to tobacco  
16 prevention into schools in the Metro Jackson area  
17 and conducting programs.  
18 Q. This is an ongoing program?  
19 A. It is an ongoing program that began this  
20 year.  
21 Q. Began in 1996?  
22 A. I have also worked for a number of years  
23 with the University of Mississippi Medical  
24 Center's School of Dentistry providing materials  
25 to a number of dentists over there who take our

1 materials and go into schools and conduct  
2 programs.  
3 Q. When you say "go into schools," you mean  
4 go into high schools, colleges, elementary  
5 schools, what?  
6 A. It's my understanding at the School of  
7 Dentistry they go into K through 12.  
8 I have also worked with the Mississippi  
9 Medical Wives' Auxiliary, and provided materials  
10 to them, and they have conducted a number of  
11 programs in schools throughout the State.  
12 Q. The UMC, University of Mississippi  
13 Medical Center School of Dentistry program, how  
14 long has that been going on?  
15 A. I don't know.  
16 Q. Was it going on when you started?  
17 A. The dentistry program? Yes, it was.  
18 Q. Insofar as it relates to your efforts to  
19 disseminate tobacco prevention materials.  
20 A. I started working with Karen Crews,  
21 instructor over there, in either 1990 or '91.  
22 It's been ongoing since then.  
23 Q. And how about the Mississippi Medical  
24 Wives' Auxiliary, your work with them?  
25 A. Started that work in approximately 1993.

Page 361

1 Q. You mentioned the distribution of  
2 smoke-free signs.  
3 A. Correct.  
4 Q. Do you do that on a blanket basis to all  
5 schools within the State of Mississippi?  
6 A. I have done that once that I recall.  
7 Q. To what schools?  
8 A. We got a listing of all -- all -- I  
9 don't know, elementary, middle, I don't know. We  
10 got a list from the Department of Education, and  
11 we mailed signs.  
12 Q. Are we through with schools now?  
13 A. We are.  
14 Q. Let's go to work sites. What programs  
15 have been introduced by the Mississippi State  
16 Department of Health in work sites to reduce  
17 tobacco use?  
18 A. Well, we have provided smoking cessation  
19 facilitator training on a number of occasions.  
20 Q. Uh-huh.  
21 A. We have trained approximately 100 people  
22 throughout the State to be cessation  
23 facilitators.  
24 We have provided, when requested,  
25 technical assistance in the area of policy

1 development.

2 We have provided smoke-free building  
3 signs to hundreds of -- probably thousands of  
4 businesses throughout the State, upon request.

5 In conjunction with our work site  
6 wellness program in the Division of Health  
7 Promotion and Education, we have provided  
8 information to state agencies, in particular, upon  
9 request.

10 Q. Done?

11 A. Correct, I'm done.

12 Q. So the distribution of materials in  
13 connection with work sites, again, is in response  
14 to a request from a given work site or employer?

15 A. Primarily, it is.

16 Q. The smoking cessation program started  
17 when?

18 A. We did -- we conducted one in the first  
19 six months that I referred to in 1989 or '90 when  
20 I worked in Health Promotion, whenever that was.  
21 We did a Round Robin of them throughout the State  
22 in the summer of 1995.

23 Q. And you've trained 100 facilitators?

24 A. Approximately 100.

25 Q. What about programs in communities?

1 stand up and tell people what the risks are and  
2 what the Mississippi numbers indicate that's going  
3 on with smoking among adults and youth, and then  
4 make them aware that we have a program that can  
5 provide them with assistance in the form of policy  
6 development or cessation.

7 Q. And when you say "policy development,"  
8 you mean development of a no smoking policy?

9 A. If that's what they're needing.

10 Q. What else falls under that aspect of  
11 your job, as you understand it?

12 A. Primarily, that's what I deal with is no  
13 smoking. It can either be -- obviously, there are  
14 different levels of smoking policies. There's  
15 total bans, and there's restriction, and people  
16 want information about ventilation systems.

17 And I have a lot of people at these  
18 community meetings ask me, "As an employee of an  
19 agency, what are my rights?" And so I get -- I  
20 have to provide them with whatever information is  
21 available pertaining to their rights.

22 Q. And what information do you provide them  
23 in that -- in response to such an inquiry?

24 A. I -- basically, it's very simple. I  
25 tell them I can provide them with information

1 What does that mean?

2 A. The training that I mentioned earlier  
3 that I have done in conjunction with the MEPC  
4 and/or DREAM, we have gone into communities,  
5 provided them with awareness programs.

6 Q. When you say "communities," you mean a  
7 city or a town?

8 A. A city or a town. We did not  
9 specifically target teachers or medical  
10 personnel. We had a blanket invitation to anyone  
11 within that community or town to attend the  
12 training and/or the meeting program.

13 Q. And this is a training program in which  
14 you teach them about the risks of tobacco use?

15 A. From my -- from my perspective, it was  
16 more of an awareness of we have a program at the  
17 State Department of Health and if you have a need  
18 for the tobacco prevention program here is the  
19 types of services that we can provide to you and  
20 here's how you can reach us.

21 Q. So when you say "awareness," you really  
22 mean awareness that we're here to provide a  
23 service if you want us to, as opposed to awareness  
24 of the risks of tobacco?

25 A. It certainly involves both. I certainly

1 about environmental tobacco smoke and the health  
2 risks associated with it, and passive smoking.  
3 And then it's up to them to discuss it with their  
4 employer.

5 I do, for communities, for work sites,  
6 or for schools, or for anyone that asks me, if I  
7 do not have the information available, I search  
8 for it. And I try to obtain it and provide it to  
9 them in a timely manner.

10 Q. Are you aware of any study that has been  
11 conducted by the State of Mississippi evaluating  
12 the risks of environmental tobacco smoke to  
13 Mississippians?

14 A. I'm not aware of any.

15 Q. That's not among what you provide to  
16 these people when they request?

17 A. When -- no.

18 Q. Does that cover the programs that have  
19 been introduced in the communities to reduce  
20 tobacco use?

21 A. Pretty much.

22 Q. Let's talk about programs that have been  
23 introduced in clinics by the public health staff  
24 to reduce tobacco use. What are they?

25 A. We have provided materials to the

Page 366

Page 368

1 clinics, the Mississippi State Department of  
2 Health's clinics throughout the State that pertain  
3 to -- there are eight different fact sheets that  
4 we provide them that pertain to tobacco use that  
5 they distribute or make available, they make  
6 available to the patients that come in there.

7 We have provided training to public  
8 health staff who regularly see and counsel with  
9 maternity patients.

10 Q. Are these fact sheets among the  
11 documents produced?

12 A. I assume that they were. The fact  
13 sheets themselves were developed this year.

14 Q. When this year?

15 A. I got them probably July or August.

16 MR. BURTON: Lee, will you check? My  
17 guess is we don't have those because the  
18 productions occurred before that.

19 MR. YOUNG: Right.

20 Q. (By Mr. Burton) You seem to be familiar  
21 with these fact sheets. Do you know their topics?

22 A. I think I can call them off, "Women and  
23 Smoking," "Minorities and Smoking" --

24 Q. Slow down.

25 A. "Minorities and Tobacco Use, "Smoking

1 Q. Are the facts contained in these sheets  
2 based on Mississippi specific data, or are they  
3 drawn from national data?

4 A. Both.

5 Q. Which ones are based on Mississippi  
6 data?

7 A. There is some information on each of  
8 them from Mississippi, BRFS and/or YRBS, if it's  
9 appropriate.

10 Q. And that would be the source of the  
11 information that is Mississippi specific in these  
12 fact sheets?

13 A. Correct, and it states "Mississippi  
14 Data" on it.

15 Q. But the source of the Mississippi Data  
16 would be either the BRFS or the YRBS?

17 A. Correct.

18 Q. And nothing else?

19 MR. YOUNG: If you know.

20 A. Well, I don't know about "nothing else."

21 Q. (By Mr. Burton) As opposed to the  
22 Mississippi specific data?

23 A. I can't say that those are the only two  
24 sources on there.

25 Q. The only two you're aware of?

Page 367

Page 369

1 and Cancer," "Youth and Tobacco," "Environmental  
2 Tobacco Smoke," "The Economics of Tobacco Use" and  
3 "Smokeless Tobacco."

4 Q. And these fact sheets were prepared by  
5 the Mississippi State Department of Health?

6 A. They were.

7 Q. "Women and Smoking," "Minorities and  
8 Tobacco," "Smoking and Cancer," "Youth and  
9 Tobacco," "Environmental Tobacco Smoke,"  
10 "Economics of Tobacco Use," and "Smokeless  
11 Tobacco?"

12 A. Uh-huh, isn't that eight.

13 MR. BAILEY: Seven.

14 Q. (By Mr. Burton) Seven.

15 A. Well, you left one out. Couldn't have  
16 been me.

17 Q. I was writing fast as I could. If it  
18 comes to you.

19 A. Minorities, did you mention minorities?

20 Q. I have "Women in Smoking," "Minorities  
21 and Tobacco," "Smoking and Cancer," "Youth and  
22 Tobacco," "Environmental Tobacco Smoke,"  
23 "Economics of Tobacco Use," and "Smokeless  
24 Tobacco."

25 A. Okay. If it comes to me.

1 MR. YOUNG: As you sit here?

2 A. Yeah.

3 MR. BURTON: Why don't we take about a  
4 five minute break.

5 (A short break was taken.)

6 Q. (By Mr. Burton) Looking at Exhibit 23,  
7 Ms. Grubbs, the next statement on there, it says  
8 that you will discuss at trial, "The prevalence of  
9 smoking and demographics of smokers among  
10 Mississippi adults and high school students." Do  
11 you see that?

12 A. I do.

13 Q. What do you expect to discuss at trial  
14 on that topic?

15 A. I express --

16 MR. YOUNG: It may be a little hard with  
17 that sticky Jolly Rancher.

18 A. I expect to be able to talk about the  
19 low income individuals who, according to BRFS have  
20 a higher prevalence of smoking. I expect to be  
21 able to talk about the increase in prevalence  
22 among youth according to YRBS.

23 Q. (By Mr. Burton) That's the increase in  
24 prevalence among low income individuals; is that  
25 what you said?



Page 370

Page 372

1 A. Yes.  
 2 Q. And the increase in prevalence among  
 3 youth?  
 4 A. Among youth.  
 5 Q. Anything else you expect to discuss  
 6 concerning the prevalence and/or demographics of  
 7 smokers among Mississippi adults and high school  
 8 students?  
 9 A. I can discuss, in general, the overall  
 10 demographics of educational level as it relates to  
 11 smoking according to YRBS.  
 12 Q. What is your expected testimony on the  
 13 low income prevalence of smoking?  
 14 A. In Mississippi and nationally, the  
 15 numbers show that the lower the income level the  
 16 higher the smoking rate.  
 17 Q. And the basis for that opinion is what?  
 18 A. BRFS.  
 19 Q. Anything else you're relying on your  
 20 opinion that in Mississippi and nationally there's  
 21 a correlation between low income and smoking  
 22 prevalence?  
 23 A. I believe I have read that in various  
 24 journal articles, in Surgeon General's reports.  
 25 Q. Anything else?

1 Q. Is that the one that you rely on for  
 2 your opinion that prevalence of smoking among  
 3 youth in Mississippi has increased?  
 4 MR. YOUNG: I just want to be clear,  
 5 you're talking about as far as documentation?  
 6 MR. BURTON: Yes.  
 7 A. This and the 1993 report.  
 8 Q. (By Mr. Burton) Is there anything else  
 9 you're relying on for that opinion?  
 10 A. I am relying on statements that I hear  
 11 from teachers, observations that I make personally  
 12 when I'm on school campuses, or when I'm riding  
 13 through my very own community.  
 14 Q. Personal experience?  
 15 A. Personal experience, and the experience  
 16 of my friends, co-workers, and professionals who  
 17 work with students and young people on a daily  
 18 basis.  
 19 Q. Do you have any role in the preparation  
 20 of the YRBS report?  
 21 A. No.  
 22 Q. Any role in the gathering of the data  
 23 for the YRBS report?  
 24 A. No.  
 25 Q. Any role in the compilation of the data

Page 371

Page 373

1 A. I have heard it at national conferences.  
 2 Q. Is that the extent of your testimony on  
 3 prevalence as it relates to low income adults and  
 4 high school students in Mississippi?  
 5 A. Educational level, as I mentioned  
 6 before.  
 7 Q. I'm going to get to that. You also  
 8 expected to give an opinion that there is an  
 9 increase in prevalence among youth in Mississippi;  
 10 is that correct?  
 11 A. That's correct.  
 12 Q. What is that based on?  
 13 A. 1995 YRBS.  
 14 Q. Anything else?  
 15 A. That's basically it.  
 16 Q. Do you have any role in the compilation  
 17 of YRBS?  
 18 A. I do not.  
 19 (Exhibit 24 marked for identification.)  
 20 Q. The court reporter has marked, I think  
 21 as Exhibit 24, what I believe to be an example of  
 22 a Youth Risk Behavior Survey. Can you confirm  
 23 that for me?  
 24 A. It is a 1995 Youth Risk Behavior Survey  
 25 for the State of Mississippi.

1 as reflected in the YRBS report?  
 2 A. No.  
 3 Q. Do you know how that data is compiled?  
 4 A. No.  
 5 Q. Do you know whether that report is based  
 6 on raw numbers or some weighted numbers?  
 7 A. No.  
 8 Q. Is it fair to say that you take that  
 9 report at face value?  
 10 A. Fair.  
 11 Q. Anything else you expect to testify  
 12 about concerning the prevalence of smoking and  
 13 demographics of smokers among Mississippi adults  
 14 and high school students?  
 15 A. The information that I've stated based  
 16 on the BRFS and YRBS reports that I've read and my  
 17 own personal observations and conversations that I  
 18 have with people on a daily basis.  
 19 Q. I'm asking for other opinions. We've  
 20 talked about that there is an increased prevalence  
 21 or there's a correlation between low income and  
 22 smoking prevalence, and there is an increase in  
 23 the prevalence of smoking among Mississippi  
 24 youth.  
 25 Are there other opinions you expect to

Page 374

Page 376

1 give at trial concerning prevalence of smoking and  
2 demographics of smokers among Mississippi adults  
3 and high school students?

4 MR. YOUNG: Other than what's disclosed  
5 here, age, race, and gender general demographics?

6 MR. BURTON: She hasn't said those yet,  
7 Lee, and I'm asking the witness what she's going  
8 to testify about.

9 A. Yes, I can talk about age, race, gender,  
10 educational level among adults and youth.

11 Q. (By Mr. Burton) And what are your  
12 opinions, let's take age -- what are your opinions  
13 on smoking prevalence in age?

14 A. My opinion is that among 9th through  
15 12th grade students smoking prevalence is  
16 increasing in Mississippi.

17 My opinion is also based on what I  
18 observe on a regular basis that children as young  
19 as kindergarten and first grade are beginning to  
20 use tobacco products in this State.

21 Q. That's personal observations you've seen  
22 in schools?

23 A. That is personal observations out of  
24 schools. That is statements that I have gotten  
25 from professionals who work in schools. That is

1 A. BRFS.

2 Q. Is it fair to say that your opinion,  
3 with respect to smoking prevalence and its  
4 correlation with race, is based on whatever that  
5 BRFS report says?

6 A. It's based on that. It's also going to  
7 be based on what I recently read and referred to  
8 having read in a MMWR that I cannot recall today  
9 because I did not --

10 Q. Is it fair to say then you cannot give  
11 me your opinion as to what you're going to testify  
12 about, specifically, concerning the correlation  
13 between race and smoking prevalence?

14 A. Not today.

15 MR. BURTON: I reserve the right to  
16 depose this witness on that issue.

17 MR. YOUNG: Well, why don't we get  
18 the --

19 MR. BURTON: She said she doesn't have  
20 the MMWR report.

21 MR. YOUNG: That's the one you're  
22 talking about that you requested?

23 A. Uh-huh.

24 MR. YOUNG: Have you read it?

25 A. I cannot -- no, we didn't find it.

Page 375

Page 377

1 statements I've received from doctors and dentists  
2 around the State.

3 Q. What about race?

4 A. I expect to be able to discuss the  
5 difference in smoking prevalence among the races  
6 in Mississippi.

7 Q. Again, the basis for that is --

8 A. It's going for YRBS, BRFS, and an MMWR  
9 that I referred to recently that I do not have in  
10 my possession today.

11 Q. But you do have some reports in your  
12 car, right?

13 A. I do.

14 Q. I've asked Mr. Young, and he's agreed  
15 that you will produce those after the lunch break?

16 A. That's fine. That particular MMWR is  
17 not out there.

18 Q. When you say you expect to be able to  
19 discuss the smoking prevalence among races, can  
20 you be more specific?

21 A. I cannot be specific today because I do  
22 not have the information in front of me. I do not  
23 have the report in front of me.

24 Q. What report would you need in front of  
25 you to give your opinion?

1 Q. (By Mr. Burton) Let's talk about gender  
2 for a moment. Do you have an opinion with respect  
3 to correlation between smoking prevalence and  
4 gender?

5 A. The literature that I've been reading  
6 indicates that women are beginning to smoke at a  
7 higher rate than men.

8 Q. "Literature" being?

9 A. Literature being BRFS, journals that I'm  
10 reading from all the way from JAMA to the "Tobacco  
11 Control Journal."

12 Q. Other than testifying that women are  
13 beginning to smoke more than men, do you  
14 anticipate giving an opinion with respect to the  
15 Mississippi population?

16 A. I expect to be able to do that based on  
17 my own observations and conversations that I'm  
18 having with individuals around the State and based  
19 on what's --

20 Q. Do you expect to give an opinion that  
21 has percentages in it or is anymore specific than  
22 a general opinion that women are beginning to  
23 smoke more than men?

24 A. I expect to talk about percentages.

25 Q. And do you know those percentages today?

Page 378

Page 380

1 A. I do not.  
2 MR. BURTON: I reserve the right to  
3 depose this witness on that issue.  
4 Q. (By Mr. Burton) Do you expect to  
5 testify about percentages on youth smoking?  
6 A. I do.  
7 Q. Do you have those percentages here  
8 today?  
9 A. I know that 35 percent of high school  
10 9th through 12th grade students in Mississippi in  
11 1995 reported that they were smokers.  
12 Q. Thirty-five percent of high school  
13 students?  
14 A. Ninth through 12th grade.  
15 Q. Do you expect that to be the extent of  
16 your opinion as it relates to youth?  
17 A. No.  
18 Q. Do you expect to give percentages  
19 concerning other age groups?  
20 A. No.  
21 Q. What other opinions do you expect to  
22 render with respect to smoking prevalence among  
23 youth other than 35 percent of high school  
24 students in Mississippi smoke?  
25 A. I expect to break it down by race, by

1 Q. Okay.  
2 A. I expect to be able to report with  
3 that -- that 48 and a half percent got their  
4 cigarettes from convenience stores and gas  
5 stations.  
6 I can also refer to a report from the  
7 State Department of Mental Health regarding the  
8 recent compliance checks that they conducted  
9 regarding compliance rates throughout  
10 Mississippi. I do not have that information with  
11 me today.  
12 Q. You expect to render an opinion that 35  
13 percent of high school students reported smoking  
14 at least once during the last month, correct?  
15 A. I do, I do.  
16 Q. And you also expect to render an opinion  
17 that 48.4 percent got their own cigarettes from a  
18 convenience store, gas station, or supermarket?  
19 A. I do.  
20 Q. What other opinions do you expect to  
21 render at trial with respect to youth smoking  
22 and -- prevalence of youth smoking in  
23 Mississippi? You mentioned one there at the end,  
24 something about compliance checks.  
25 A. I will review the material that's

Page 379

Page 381

1 sex, by smokeless tobacco use.  
2 Q. Are you prepared to give those  
3 statistics today?  
4 A. I can certainly do that today.  
5 Q. Those are reflected in the 1995 YRBS  
6 report?  
7 A. YRBS, correct.  
8 MR. YOUNG: I think your draft of your  
9 Tobacco Control Plan cites it.  
10 A. They've been revised. This is a newer  
11 plan.  
12 Q. Where are you looking, please, ma'am?  
13 A. I'm looking on page 30.  
14 Q. Do you mind if I look over your  
15 shoulder?  
16 MR. YOUNG: No.  
17 Q. (By Mr. Burton) Okay. You were looking  
18 at page 30 of the 1995 Youth Risk Behavior Survey  
19 report?  
20 A. Correct.  
21 Q. And where on page 30 are you looking to  
22 find the basis for your opinion?  
23 A. Bullet 3 under "Response Summary"  
24 indicates that "35 percent reported smoking at  
25 least once during the past month."

1 produced in the compliance checks that were  
2 conducted by the State Department of Mental Health  
3 and the report that was produced by that agency.  
4 Q. Are you prepared to render that opinion  
5 today?  
6 A. No, I'm not.  
7 Q. Do you know what those statistics show  
8 today?  
9 A. No, I don't.  
10 MR. BURTON: I reserve the right to  
11 depose this witness on those issues.  
12 MR. YOUNG: Counselor, we would ask if  
13 you've got the BRFSS report and the production that  
14 was done by the Department of Health, or the  
15 compliance check report that's been produced in  
16 this litigation, or whatever -- if you want to ask  
17 her about the statistics, because those are the  
18 reports that she's relying on. Those reports have  
19 been produced to the defendants. If you've got  
20 those, show them to her.  
21 MR. BURTON: I don't have them with me,  
22 Lee. I have a draft BRFSS from one year, 1990,  
23 which is not the one she's talking about.  
24 Q. (By Mr. Burton) Any other opinions you  
25 expect to render with respect to the prevalence of

Page 382

Page 384

1 youth smoking in Mississippi?  
 2 A. I expect to be able to look at  
 3 information regarding race and sex.  
 4 Q. Among minors?  
 5 A. Among 9th through 12th grade students.  
 6 I also expect to be able to discuss the --  
 7 Q. Are those opinions reflected in the  
 8 Youth Risk Behavior Survey report that's in front  
 9 of you marked as Defendants' Exhibit 24?  
 10 A. 24.  
 11 Q. Before we do that, I see on page 30 a  
 12 statement that says, "76.7 percent were not asked  
 13 to show proof of age." Near the bottom, response  
 14 summary bullet point number 4.  
 15 A. Okay.  
 16 Q. Do you know the basis for that  
 17 statement?  
 18 A. I do not.  
 19 Q. Is that consistent or inconsistent with  
 20 your opinion concerning the instances in which  
 21 minors have been asked to show proof of age when  
 22 purchasing cigarettes?  
 23 A. It's consistent.  
 24 Q. Your compliance report that you  
 25 conducted in 1994 showed something different; did

1 whether the State is in compliance with the Synar  
 2 Amendment?  
 3 A. It is.  
 4 Q. Do you expect to render any testimony  
 5 with respect to a historical look at smoking  
 6 prevalence in Mississippi as to any age, race,  
 7 gender, educational, or income level?  
 8 A. Youth.  
 9 Q. You expect to do that on a historical  
 10 basis?  
 11 A. Based on the data that I have from YRBS  
 12 from 1990, 1993, and 1995, I do.  
 13 Q. And are you prepared to give that  
 14 opinion today?  
 15 A. No, I'm not at this time.  
 16 MR. BURTON: I reserve the right to  
 17 depose the witness on that issue.  
 18 MR. YOUNG: We would ask if you have the  
 19 documents that have been produced to the  
 20 defendants and you have specific questions  
 21 regarding the prevalence figures in those, she's  
 22 stated she's relying on those to give her opinion.  
 23 Q. (By Mr. Burton) Are you relying on  
 24 anything else other than the YRBS reports to  
 25 render that opinion?

Page 383

Page 385

1 it not?  
 2 A. I cannot answer that.  
 3 MR. YOUNG: Without seeing the report.  
 4 A. Without seeing the report, obviously.  
 5 MR. YOUNG: Let's take a break for about  
 6 five minutes.  
 7 MR. BURTON: We just took a break.  
 8 MR. YOUNG: I know. I want to tell the  
 9 witness something.  
 10 (A short break was taken.)  
 11 Q. (By Mr. Burton) Are you ready to  
 12 continue now?  
 13 A. I am.  
 14 Q. You mentioned you were going to render  
 15 an opinion with respect to client compliance  
 16 checks based upon the report from the Department  
 17 of Public Safety; is that correct?  
 18 A. Mental Health.  
 19 Q. Department of Mental Health?  
 20 A. Correct.  
 21 Q. What report is that?  
 22 MR. YOUNG: It's the same report. It's  
 23 by the -- in conjunction with both agencies.  
 24 Q. (By Mr. Burton) Is it report of  
 25 compliance checks done in an effort to determine

1 A. No.  
 2 Q. Is your opinion, essentially, a  
 3 recitation of what is in those reports?  
 4 A. Correct.  
 5 Q. No other basis for them?  
 6 MR. BURTON: I'd appreciate it if you  
 7 wouldn't gesture, counsel. Let her answer the  
 8 question, please.  
 9 A. No other basis of data. I have already  
 10 said that I'm going to give an opinion of what I  
 11 hear from professionals who work with youth. I'm  
 12 going to talk about what I observe when I'm in  
 13 schools, and in communities.  
 14 Q. (By Mr. Burton) Any other opinions you  
 15 expect to render concerning the prevalence or  
 16 demographic of smokers among Mississippi adults  
 17 and high school students?  
 18 A. No.  
 19 Q. Next thing on your list is that you will  
 20 testify that "The vast majority of smokers --  
 21 Mississippi adult smokers started or start smoking  
 22 as children or adolescents." Do you see that?  
 23 A. I do.  
 24 Q. Is that an accurate statement of your  
 25 opinion?

Page 386

Page 388

1 A. It is.  
2 Q. What is the basis for that opinion?  
3 A. BRFS.  
4 Q. Any other basis for that opinion?  
5 A. Journal articles that I read, Surgeon  
6 General's reports.  
7 Q. Are they Mississippi specific?  
8 A. No, they're not.  
9 Q. Is your opinion that the vast majority  
10 of Mississippi adult smokers started or start  
11 smoking as adolescents or children, or the vast  
12 majority of adult smokers nation-wide?  
13 A. Both, specific to Mississippi.  
14 Q. And the basis for your testimony  
15 concerning the incidents of Mississippi adults who  
16 started as children are instances in the BRFS  
17 report?  
18 A. The BRFS report and -- yes.  
19 Q. For what year?  
20 A. I will use 1993, 1994.  
21 Q. And you plan to recount the statistics  
22 cited in those two reports?  
23 A. I do.  
24 Q. Do you intend or do you expect there  
25 will be any other component to your testimony

1 MR. YOUNG: Youth smoking or youth  
2 demographics of smokers, prevalence rates?  
3 MR. BURTON: Prevalence rates.  
4 A. No, I would not expect it to be  
5 different.  
6 Q. (By Mr. Burton) How about smoking  
7 demographics? Would you expect it to be different  
8 on that?  
9 MR. YOUNG: Do you understand the  
10 question?  
11 A. I understand the question. No, I don't  
12 expect it to be different.  
13 Q. (By Mr. Burton) And that is the 1993  
14 and 1995 YRBS reports you would be relying on?  
15 A. Correct.  
16 (Off the record.)  
17 Q. I asked you some questions, Ms. Grubbs,  
18 about your role in the compilation of the data  
19 reflected in the Youth Risk Behavior Survey  
20 report. Do you remember that?  
21 A. I do.  
22 Q. Did you have any role in the compilation  
23 of the material that goes into BRFS?  
24 A. No.  
25 Q. Do you have any role in gathering that

Page 387

Page 389

1 other than the statistics in the 1993 and 1994  
2 report?  
3 A. I don't.  
4 Q. So if I looked at those two reports and  
5 I saw what the statistics were, with respect to  
6 Mississippi smokers who may have started as  
7 children or adults, that would be your testimony?  
8 A. It would.  
9 Q. Let's look at the next sentence of  
10 Exhibit 23.  
11 Before we do that, let's go back. We  
12 talked a little bit about your reliance on the  
13 YRBS report for a certain aspect, certain  
14 statistics of your testimony. Do you remember  
15 that?  
16 A. I do.  
17 Q. If I went back to that report and saw  
18 those statistics, that would be your opinion?  
19 A. As far as I'm relying on that report, it  
20 would be.  
21 Q. Well, would you expect your opinion  
22 concerning statistics to be different from the  
23 statistics that are shown in the YRBS report?  
24 MR. YOUNG: On what issue?  
25 Q. (By Mr. Burton) On the youth issue.

1 material?  
2 A. No.  
3 Q. Do you have any role in assessing or  
4 evaluating the responses?  
5 A. No.  
6 Q. Do you know if the figures in there are  
7 raw figures or weighted figures?  
8 A. I do not know.  
9 Q. Is it fair to say that you take the  
10 information, as reported, in those BRFS reports at  
11 face value?  
12 A. I do.  
13 Q. The next on the list says that,  
14 "Ms. Grubbs will also explain that behavioral  
15 risks contribute to chronic disease." Let's stop  
16 right there. Is that your opinion?  
17 A. It is.  
18 Q. What behavioral risks are you referring  
19 to?  
20 A. Tobacco use.  
21 Q. What other ones?  
22 A. That's the one I'm referring to.  
23 Q. Well, you do acknowledge that other  
24 behavioral risks contribute to chronic disease; do  
25 you not?

Page 390

Page 392

1 A. Which other ones?

2 Q. You're not aware of any other behavioral

3 risks that can contribute to chronic disease?

4 A. I am.

5 Q. What are the ones you believe contribute

6 to chronic disease?

7 A. I believe tobacco use is the leading

8 behavioral risk that contributes to a number of

9 chronic diseases.

10 Q. What other behavioral risks contribute

11 to chronic disease, Ms. Grubbs?

12 A. I believe that over-eating, eating the

13 wrong foods, leading a sedentary life-style.

14 Q. Any others?

15 A. I'm sure there are some.

16 Q. How about alcohol consumption?

17 A. I believe that it can.

18 Q. Any others?

19 A. That's generally it.

20 Q. When you say "behavioral risks," those

21 are your words; are they not?

22 A. They are.

23 Q. What do you mean by "behavioral risks?"

24 A. I mean behaviors that a person engages

25 in that creates a risk of them developing a

1 is a risk factor, a leading risk factor for CVD.

2 Q. And these vital statistic records that

3 you reviewed are which ones?

4 A. Some of the ones that have been produced

5 or all of the ones that have been produced here.

6 Q. Can you give me a name of one of the

7 reports?

8 A. Vital Statistics Data, Mississippi 1995.

9 Q. Any other documents from Vital

10 Statistics that you've reviewed to reach that

11 opinion with respect to tobacco use?

12 A. I can't recall one, specifically.

13 Q. Are you aware of other risk factors for

14 cardiovascular disease?

15 A. I am.

16 Q. And what are they?

17 A. Sedentary life-style.

18 Q. What else?

19 A. Eating foods that are high in fat.

20 Q. What else?

21 A. Heredity.

22 Q. What else?

23 A. That's about it generally.

24 Q. What about over-eating?

25 A. I'm sure that it is.

Page 391

Page 393

1 disease or illness.

2 Q. Are you aware of any study that has

3 analyzed the impact of over-eating as a

4 contributing factor to chronic disease in

5 Mississippi?

6 A. I'm not.

7 Q. How about with respect to eating the

8 wrong kind of foods?

9 A. I'm not.

10 Q. How about with respect to sedentary

11 life-style?

12 A. I'm not.

13 Q. How about with respect to alcohol use?

14 A. I'm not.

15 Q. When you say "Tobacco use is the leading

16 behavioral risk," I think those were your words,

17 weren't they?

18 A. They are.

19 Q. What do you mean by that?

20 A. I mean that, according to the

21 information that I have received from the Office

22 of Vital Statistics, the leading cause of death in

23 Mississippi is cardiovascular disease. And the

24 information that I read in journals and articles

25 indicate that tobacco use, smoking in particular,

1 Q. How about alcohol use?

2 A. I don't know that.

3 Q. From your experience, is over-eating a

4 problem within the State of Mississippi?

5 A. My experience?

6 Q. Yes, ma'am?

7 MR. YOUNG: If you know.

8 A. I don't know what experience you expect

9 me to draw from.

10 Q. (By Mr. Burton) Well, from the

11 Mississippi State Department of Health's

12 perspective, is over-eating a health problem in

13 Mississippi?

14 A. I don't know.

15 Q. How about eating the wrong kinds of

16 foods?

17 A. I don't know.

18 Q. How about leading a sedentary life

19 style?

20 A. I'm not going to speak for the State

21 Department of Health.

22 Q. Do you know Mr. Mike Bowling?

23 A. I do.

24 Q. Have you ever read any of his work

25 concerning the sedentary life-style in

Page 394

1 Mississippi?  
2 A. I may have.  
3 Q. Are you familiar that he concluded that  
4 Mississippi is one of the -- Mississippians are  
5 among the -- lead most sedentary life-style of  
6 almost any state in the country?  
7 A. I don't know that I've read that.  
8 (Off the record.)  
9 (Exhibit 25 marked for identification.)  
10 Q. Take a look at Exhibit 25, and see if  
11 you've ever seen that before.  
12 MR. YOUNG: Do you have a copy?  
13 A. I don't believe I have.  
14 Q. You've never seen that before?  
15 MR. BURTON: I'd appreciate it if you'd  
16 let the witness testify, Lee, instead of prompting  
17 her.  
18 MR. BURTON: If she doesn't know, she  
19 can say it without prompting from you.  
20 Q. (By Mr. Burton) Did you see the  
21 sentence in here that says, "First, an independent  
22 study ranked as one of the most sedentary states  
23 in the country?"  
24 A. No, I didn't read it.  
25 Q. See that sentence right there?

Page 395

1 A. I see it.  
2 Q. Have you ever read such a study?  
3 A. I have not.  
4 Q. Do you have any reason to doubt the  
5 accuracy of that statement?  
6 A. I do not.  
7 Q. Are you aware of the percentage of  
8 Mississippians that are at risk for cardiovascular  
9 disease because of their sedentary life-style?  
10 A. I am not.  
11 Q. Do you see the next sentence there, it  
12 says, "Combine our lack of exercise with our rates  
13 of obesity and hypertension, and you'll see that  
14 the average Mississippian has the highest rate of  
15 heart disease in the nation?"  
16 A. I do.  
17 Q. Do you have any reason to doubt the  
18 accuracy of that statement?  
19 A. I don't.  
20 Q. Any other behavioral risks that  
21 contribute to chronic disease that you expect to  
22 testify about, Ms. Grubbs?  
23 A. No.  
24 Q. Second part of that sentence goes on to  
25 say that you "expect to opine that behaviors that

Page 396

1 put Mississippians at risk include tobacco use and  
2 exposure to environmental tobacco smoke." Do you  
3 see that?  
4 A. I do.  
5 Q. Does that accurately describe the  
6 opinion you expect to give in this case?  
7 A. It is.  
8 Q. You say that the behaviors that put at  
9 risk include tobacco use and exposure to tobacco  
10 smoke -- excuse me, environmental tobacco smoke."  
11 Are the other behaviors that you refer to those  
12 that we just went over, that is over-eating,  
13 eating the wrong foods, sedentary life-style, and  
14 use of alcohol?  
15 A. I don't intend to testify to those  
16 behaviors.  
17 Q. But you acknowledge that those behaviors  
18 contribute to chronic disease?  
19 A. I do.  
20 Q. And you have not conducted any study  
21 that would attempt to isolate the impact of any of  
22 those figures -- excuse me, any of those risk  
23 factors on chronic disease other than tobacco use?  
24 A. I have not.  
25 Q. Have you conducted any study that

Page 397

1 suggests the cost of tobacco use -- excuse me, the  
2 impact -- the extent to which tobacco use  
3 contributes to chronic disease?  
4 A. I have not.  
5 Q. And in rendering your opinion on that  
6 topic, you expect to rely on the reports from the  
7 Vital Statistics department?  
8 A. Primarily.  
9 Q. And do you plan to give a statistical  
10 opinion in that regard?  
11 A. No. I will refer to the State  
12 Epidemiologist for statistical opinions.  
13 Q. And you will rely on the statistical  
14 opinions that they render as a basis for yours?  
15 A. I will.  
16 Q. Do you expect to give a dollar amount  
17 for the impact of tobacco use on --  
18 A. I do not.  
19 Q. -- the State of Mississippi? You do  
20 not?  
21 A. I do not.  
22 Q. Is it fair to say that, with respect to  
23 behavioral risks, the extent of your opinion is  
24 that certain behavioral risks contribute to  
25 chronic disease and that tobacco use and exposure

1 to environmental tobacco smoke are among those  
 2 behavioral risks?  
 3 A. It's fair.  
 4 Q. Let's look at the next paragraph. The  
 5 first sentence says, "Ms. Grubbs will discuss the  
 6 factors that contribute to adolescent smoking."  
 7 Do you see that?  
 8 A. I do.  
 9 Q. Give me those factors if you would,  
 10 please, ma'am.  
 11 A. Access to tobacco products, advertising  
 12 of tobacco products, peer pressure, family role  
 13 modeling, societal acceptance of tobacco use.  
 14 Q. Is that it?  
 15 A. In general.  
 16 Q. Are those in any particular order?  
 17 A. No.  
 18 Q. What do you think the most important  
 19 factor that contributes to adolescent smoking is?  
 20 A. I think the most important is peer  
 21 pressure.  
 22 Q. What's the second most important factor?  
 23 A. Advertising.  
 24 Q. Third?  
 25 A. The family.

1 indicates the tobacco industry is advertising to  
 2 appeal to youth.  
 3 Q. One is the amount of money spent on  
 4 advertising?  
 5 A. Correct.  
 6 Q. Two is the literature. What are you  
 7 referring to?  
 8 A. I'm referring to the Camel products, the  
 9 Marlboro man, walk a mile for a piece of junk,  
 10 those kinds of --  
 11 Q. What youth have told you?  
 12 A. Yes.  
 13 Q. Tell me about that.  
 14 A. There are kids who will purchase  
 15 cigarettes, sell -- smoke cigarettes and save the  
 16 crumpled wrappers, and encourage their peers to  
 17 buy cigarettes and save the crumpled wrappers in  
 18 order to obtain a bomber jacket or a cap.  
 19 Q. Are you aware of any studies that  
 20 suggest that cigarette advertising does not impact  
 21 one's decision to smoke?  
 22 A. No, I'm not.  
 23 Q. Never seen anything like that?  
 24 A. I don't know that I've never seen it.  
 25 I'm not aware of it as I'm here today.

1 Q. Fourth?  
 2 A. What's on there?  
 3 Q. You've got access to tobacco products  
 4 and societal acceptance left.  
 5 A. Access.  
 6 Q. When you say "peer pressure," what do  
 7 you mean?  
 8 A. I mean the pressure from an individual's  
 9 friends that encourage that individual to start  
 10 using tobacco products. Now they're making me  
 11 nervous.  
 12 MR. YOUNG: They're just discussing  
 13 documents.  
 14 Q. (By Mr. Burton) Number 2, you have  
 15 advertising of tobacco products?  
 16 A. Correct.  
 17 Q. What's your basis for the belief that  
 18 that's the second most important factor in  
 19 contributing to adolescent smoking?  
 20 A. The literature that I've read that  
 21 indicates that billions of dollars are spent on  
 22 advertising tobacco products every year. The  
 23 advertising that I see that appears to appeal to  
 24 youth, information that youth have told me  
 25 personally, and literature that I've read that

1 Q. Are you aware of the FDC investigation  
 2 of the "Joe Camel" campaign?  
 3 A. Vaguely aware of it.  
 4 Q. Are you aware that they concluded there  
 5 was no basis to conclude that that campaign was  
 6 targeting youth?  
 7 A. I may have read that.  
 8 Q. Did you discount that finding?  
 9 A. I suspect that I did.  
 10 Q. Why?  
 11 A. Because when I go into schools and I  
 12 talk to youth, they know more -- they know  
 13 Joe Camel. They know what he's about, who he is.  
 14 They know when he was created, what he talks  
 15 about. They look up to Joe Camel, typically.  
 16 Q. How many times have you spoken to youth  
 17 about Joe Camel?  
 18 A. Every time I've gone into a school.  
 19 Q. When you say "youth," what do you mean?  
 20 A. I mean everything from kindergarten  
 21 through --  
 22 Q. You're not suggesting that the Federal  
 23 Trade Commission did not do a thorough  
 24 investigation, are you?  
 25 -- A. I am certainly not suggesting that.



1 Q. You're not suggesting they were biased,  
2 are you?  
3 A. I'm not suggesting that.  
4 Q. You just discount their conclusion?  
5 A. I have my own opinion based on what I'm  
6 told by youth.  
7 Q. And you discount the findings of the  
8 Federal Trade Commission?  
9 A. If that's the way you want to put it.  
10 Q. How would you like to put it?  
11 A. That I have my own opinion based on what  
12 I have observed and been told by youth.  
13 Q. In other words, you don't pay any  
14 attention to their finding?  
15 A. No, that --  
16 MR. YOUNG: Object to the form of the  
17 question. That's argumentative. Now, if you've  
18 got a question for her, just ask the question.  
19 Q. (By Mr. Burton) Do you ignore it?  
20 A. No, I don't ignore findings of that  
21 nature, but I don't let that be the conclusive  
22 information that I use when I'm trying to develop  
23 a program that will decrease youth initiation and  
24 use of tobacco in this State.  
25 Q. Other than these conversations you've

1 subscribe to.  
2 -- I also, in talking with youth, have  
3 found that parents are either providing tobacco  
4 products to the youth, or they look up to their  
5 parents at very young ages and see them smoking  
6 and want to be just like them, so they begin.  
7 I've had a number of youth that told me  
8 that they started smoking because their daddy did,  
9 or they started using chewing tobacco because  
10 their daddy did, or their big brother.  
11 Q. Okay. You have listed fourth in  
12 priority "access to tobacco products;" is that  
13 correct?  
14 A. That's correct.  
15 Q. Do you recall yesterday when we were  
16 talking about excise taxes and raising the price  
17 of cigarettes?  
18 A. I do.  
19 Q. And I'll find it in a moment, but the  
20 statement in there was -- and I believe you wrote  
21 it -- that said, "Raising the price of cigarettes  
22 would be the single most effective way to curtail  
23 youth access." Do you remember that?  
24 A. I vaguely remember that.  
25 Q. And we reviewed that document, and

1 had with youth, have you conducted any  
2 investigation into the impact of the Joe Camel  
3 campaign?  
4 A. No, I have not.  
5 Q. Has the State of Mississippi to your  
6 knowledge?  
7 A. Not to my knowledge.  
8 Q. Mississippi State Department of Health  
9 has not conducted such a campaign?  
10 A. Not to my knowledge.  
11 Q. How about into the Marlboro campaign?  
12 Has the State of Mississippi conducted any  
13 investigation into the Marlboro campaign?  
14 A. Not to my knowledge.  
15 Q. And you have not?  
16 A. No.  
17 Q. Three, you have "family role modeling."  
18 What's your basis for your conclusion that that's  
19 the third most important factor?  
20 A. Literature that I have read that  
21 indicates that it is. I believe that STAT has  
22 published literature to that effect in the past.  
23 I believe that Americans for Nonsmokers' Rights  
24 has. I believe I have read information to that  
25 effect in the "Tobacco Control Journal" that I

1 you've concluded that that statement was true,  
2 correct?  
3 A. True.  
4 Q. Do you not believe that anymore?  
5 MR. YOUNG: Hold on. I'm going to  
6 object to the form. That's dealing with youth  
7 access. That has nothing to do with the top three  
8 that she just testified about.  
9 Q. (By Mr. Burton) Do you no longer  
10 believe that that's the most important factor in  
11 reducing youth smoking?  
12 MR. YOUNG: That's not what your smoke  
13 question was, counselor.  
14 MR. BURTON: And I rephrased it. And  
15 that's why I rephrased it.  
16 MR. YOUNG: Let her see the report to  
17 refresh her memory before you sit here and ask her  
18 questions about it.  
19 (Off the record.)  
20 Q. Do you believe a raise in the excise tax  
21 would decrease access to tobacco products?  
22 A. I believe it would decrease access to  
23 tobacco products, yes.  
24 Q. By youth?  
25 A. Yes.

1 Q. Do you believe that that is the single  
2 most important factor in reducing youth access to  
3 tobacco products?

4 MR. YOUNG: Youth access, right?

5 MR. BURTON: Yes.

6 A. Youth access? I believe it is. I  
7 believe that I stated yesterday that, along with  
8 education, were two important factors in reducing  
9 youth initiation of tobacco use or youth tobacco  
10 use.

11 Q. (By Mr. Burton) So what you're saying  
12 is that an increase in excise taxes would be the  
13 most effective way to reduce youth access to  
14 tobacco products?

15 A. I believe that.

16 Q. But you still believe that youth access  
17 to products is only the fourth most important  
18 factor that contributes to youth smoking?

19 A. To adolescent smoking?

20 Q. Yes.

21 A. I believe that peer pressure is the  
22 number one factor.

23 (Off the record.)

24 Q. Are you familiar with an organization  
25 called the Tobacco-Free America Legislative

1 Q. Could you read those for me?

2 -- A. Peer pressure and social acceptance, a  
3 desire to appear mature, a desire to assert  
4 independence, a desire to mimic parents or role  
5 models, advertising and promotion by the tobacco  
6 industry, dependency on nicotine.

7 Q. And those are ranked, at least according  
8 to that article, in descending order of  
9 importance?

10 A. I don't know that. They're numbered.

11 MR. YOUNG: I object -- thank you.

12 Q. And the numbers are ranked in descending  
13 order?

14 MR. YOUNG: I object to the form of the  
15 question. She doesn't know. She didn't author  
16 the article.

17 MR. BURTON: Lee, she can testify  
18 whether --

19 MR. YOUNG: If they're numbered 1, 2, 3,  
20 4, 5, 6?

21 MR. BURTON: Yes.

22 A. Correct.

23 MR. YOUNG: The document speaks for  
24 itself.

25 Q. (By Mr. Burton) Do you disagree with

1 Clearing House?

2 A. I am.

3 Q. And what do you understand that to be?

4 A. Oh, I'm vaguely familiar with it.

5 Q. Have you ever read a book called, "Drug  
6 Use Among American High School Students, College  
7 Students and Other Adults" put out by the National  
8 Institute on Drug Abuse?

9 A. I don't believe so.

10 Q. Or the "Tobacco's Toll on America" by  
11 the American Lung Association?

12 A. A book? I don't believe I have.

13 (Exhibit 26 marked for identification.)

14 Q. Take a look at Exhibit 26.

15 A. (Examining.)

16 (Off the record.)

17 Q. Have you had a chance to look at that  
18 document?

19 A. I have.

20 Q. Have you ever seen it before?

21 A. If I have, I don't remember it.

22 Q. Do you -- if you look on the second  
23 page, do you see the items listed under "Why  
24 Children Smoke"?

25 A. I do.

1 that order?

2 A. In general, I agree with that.

3 Q. Thank you. And when you say "agree with  
4 that," you mean these are the factors or these --  
5 that peer pressure is number one, a desire to  
6 appear mature is number two, a desire to assert  
7 independence is number 3?

8 MR. YOUNG: I'm going to object to the  
9 form. She's been asked and answered her rank of  
10 the factors.

11 MR. BURTON: And I'm cross-examining her  
12 with respect to her rank. And I'm asking her  
13 whether she, having seen this, thinks her rank  
14 should be changed?

15 A. I agree that peer pressure is number  
16 one. What's on that --

17 Q. You had advertising as two, and that has  
18 advertising as five.

19 MR. YOUNG: Assuming they're ranked, and  
20 that's not been established yet that they're  
21 ranked in any kind of order.

22 A. I agree with my first, with what I said,  
23 that advertising is very important.

24 Q. In your view --

25 -- A. It comes right under peer pressure.

1 Q. And ahead of parental?

2 A. Yes, it does.

3 Q. Have you read the Surgeon General's

4 reports concerning his opinions as to the reasons

5 children smoke?

6 A. I haven't read an entire report, no.

7 Q. Have you seen any rankings by the

8 Surgeon General's reports as to why children

9 smoke?

10 A. I can't recall.

11 Q. In compiling the reasons or the factors

12 that you believe contribute to adolescent smoking,

13 have you relied on studies done by anybody else or

14 done by anybody?

15 A. I believe the factors that I've listed

16 there are fairly well accepted nationally. My

17 ranking may be somewhat different from others and

18 even scholars in -- medical and research

19 scholars.

20 I believe that I have taken the top

21 reasons, and I have ranked them according to what

22 I see and hear in Mississippi from students, from

23 youth, from families, from parents, from teachers,

24 from merchants.

25 Q. That's what I'm trying to establish is

1 that topic?

2 -- A. Information that I have read in articles

3 relating to research that has been conducted at a

4 level other than within Mississippi.

5 MR. BURTON: I'm sorry. Could you read

6 her answer back to me? I got distracted by a

7 flying --

8 (Record read.)

9 Q. (By Mr. Burton) In other words,

10 national or regional data?

11 A. Correct.

12 Q. Do you have anything in mind,

13 specifically?

14 A. There are several publications that the

15 Office on Smoking and Health has released. There

16 is information that comes from Americans for

17 Nonsmokers' Rights.

18 Q. Can you be anymore specific as to other

19 information? Do you have specific articles or --

20 A. There's a book, "Growing up

21 Tobacco-Free" that has a lot of information in it

22 that I have, from time to time, referred to.

23 There -- the program Teams of Teachers

24 that I referred to earlier from the Americans for

25 Nonsmokers' Rights has materials in it that I

1 your ranking, is your personal ranking based upon

2 your personal experience?

3 A. It's on my personal experience in the

4 performance of my job.

5 Q. And you acknowledge that it may differ

6 from --

7 A. It may differ from --

8 Q. -- from opinions on the same topic by

9 the Surgeon General or the American Heart

10 Association or the American Lung Association or

11 other scholars?

12 A. It may differ in ranking, but I

13 believe you'll find those elements to be right up

14 there with what they consider to be the top

15 elements.

16 Q. I'm talking about the ranking.

17 A. The ranking may be different.

18 Q. Anything else you expect to testify

19 concerning the factors which contribute to

20 adolescent smoking?

21 A. I believe that's it.

22 Q. It says you're going to "provide

23 information about health promotion research

24 related to prevention of tobacco use." Let's stop

25 right there. What do you anticipate testifying on

1 believe has -- is backed by research that's

2 related to prevention of tobacco use.

3 Q. Anything else, specifically, you can

4 recall or think of right now?

5 A. Not, specifically, right now.

6 Q. Next part of the sentence says that you

7 "anticipate discussing the efficacy of

8 interventions targeting schools, the media,

9 communities, and environmental programs." Did I

10 read that correctly?

11 A. You did.

12 Q. Do you expect to render an opinion as to

13 the efficacy of interventions targeting the

14 schools, the media, communities, and environmental

15 programs?

16 A. I do.

17 Q. Let's start with schools. What is your

18 opinion with respect to the efficacy of

19 interventions targeting schools?

20 A. Based on all the information I have read

21 down through the years and discussed with other

22 tobacco prevention specialists, it's my opinion

23 that prevention programs need to be in the

24 schools. They need to be K through 12. They need

25 to be repeated on a regular basis. It needs to be

1 part of the school curriculum.  
2 Q. MR. BURTON: Can you read that back to  
3 me, please?  
4 (Record read.)  
5 Q. (By Mr. Burton) Are prevention programs  
6 in schools in Mississippi?  
7 A. To some extent.  
8 Q. Tell me what you mean by that.  
9 A. Well, it varies from school district to  
10 school district. In some schools, health teachers  
11 are teaching components of a health curriculum  
12 that pertain to tobacco. In some schools, that is  
13 not happening.  
14 Q. So there's no uniformity statewide?  
15 A. Not to my knowledge.  
16 Q. And there is no statewide prevention  
17 program in high schools, elementary schools or  
18 middle schools throughout the State of  
19 Mississippi?  
20 A. Not to my knowledge.  
21 Q. What you're saying is that within  
22 various school districts, certain schools may have  
23 preventative programs?  
24 A. Correct.  
25 Q. Has the Mississippi State Department of

1 have encouraged them to continue to include  
2 tobacco in the curriculum.  
3 Q. Have you had any contacts with the  
4 schools, themselves, to suggest the inclusion of  
5 preventative programs in K through 12 concerning  
6 tobacco prevention and control?  
7 A. No.  
8 Q. How about the individual school boards?  
9 A. No.  
10 Q. How about the State Board of Schools?  
11 A. No.  
12 Q. You mentioned you did not know whether  
13 there were any tobacco prevention components to  
14 school curriculums at the present time. To your  
15 knowledge, has there ever been a tobacco  
16 prevention component to school curriculums on a  
17 statewide basis?  
18 A. There is a component to a curriculum  
19 that is out there, but the curriculum is offered  
20 in 9th through 12th grades one semester.  
21 Q. And what is that component of the  
22 curriculum?  
23 A. It's a comprehensive school health  
24 curriculum. And there is a tobacco component to  
25 that, I believe.

1 Health taken any initiative to try to ensure that  
2 preventative programs are put in place in the  
3 schools in Mississippi?  
4 A. Yes, we have.  
5 Q. What have you done?  
6 A. We have worked with Ginger Steadman who  
7 worked, at that time, for the Office of  
8 Health-Related Services at the Mississippi State  
9 Department of Education, and encouraged her to ask  
10 the State Department of Education to include  
11 tobacco prevention in the comprehensive school  
12 health curriculum that's offered in 9th through  
13 12th grades.  
14 Q. And has that occurred?  
15 A. I do not know.  
16 Q. When did you have this conversation with  
17 Ms. Steadman?  
18 A. In either July or August of this year.  
19 Q. Prior to July or August of this year,  
20 had you made any effort to encourage the  
21 Department of Education to include preventative  
22 programs in Mississippi schools?  
23 A. Informally, I had through working with  
24 Mrs. Steadman and the individuals in her office.  
25 And through working with teachers, I

1 Q. And when did that curriculum get  
2 adopted?  
3 A. I do not know.  
4 Q. Any other opinions as to the efficacy of  
5 interventions targeting schools?  
6 A. No.  
7 Q. Well, let's step back a minute. The  
8 interventions we identified as preventative  
9 programs in schools should be part of the school  
10 curriculum, and they should be repeated on a  
11 regular basis. And you talked about your efforts  
12 with Ginger Steadman.  
13 Have you conducted any analysis to the  
14 efficacy of the interventions that have been  
15 conducted in the State of Mississippi?  
16 A. No.  
17 Q. Based on your role as Tobacco Prevention  
18 Coordinator, do you have an opinion as to whether  
19 the efforts that have been made to date have been  
20 effective?  
21 A. How do you define "effective?"  
22 Q. What does it mean to you?  
23 A. It means to me that an intervention has  
24 successfully accomplished what it set out to  
25 accomplish. The interventions that I have worked

1 on have been successful in my opinion. We -- for  
2 what we set out to accomplish. We're still taking  
3 baby steps.

4 Q. Okay. I thought your goal was to reduce  
5 smoking in high schools?

6 A. Well, certainly it is. But that's the  
7 ultimate goal. There are many goals to reach in  
8 that goal.

9 Q. What goals do you think you have  
10 achieved?

11 A. I have achieved the implementation of  
12 tobacco prevention into the curriculum of a lot of  
13 teachers and a lot of classrooms in the State.

14 I have achieved a close relationship  
15 with a number of divisions within the Department  
16 of Education.

17 And I have achieved the goal of  
18 providing materials and information to the schools  
19 that the schools requested and/or that we have  
20 identified that were pertinent to Mississippi and  
21 have gotten them out there.

22 Q. But there's no statewide intervention  
23 program with respect to tobacco prevention, is  
24 there, in high schools in Mississippi?

25 A. An ongoing?

1 correct?

2 A. Correct.

3 Q. And smoking in high schools continues  
4 based on your personal knowledge, correct?

5 A. Correct.

6 Q. And it continues in elementary schools?

7 A. Correct.

8 Q. And it continues in middle schools?

9 A. Correct.

10 Q. Does it continue in those schools at a  
11 higher or lower rate than in the past?

12 A. Based on YRBS and the fact that it has  
13 increased in 9th through 12th grades, I am of the  
14 opinion that it is of higher rates than in the  
15 past in all grades.

16 Q. So the interventions taken by the  
17 Mississippi State Department of Health have not  
18 been effective in reducing the incidence of  
19 smoking in elementary schools?

20 A. I don't know that I'm going to say  
21 that. I'm going to say that the interventions  
22 taken by the tobacco industry have been more  
23 effective in encouraging youth to start using and  
24 continue using tobacco products.

25 Q. It's a very simple question.

1 Q. Yes.

2 A. Not to my knowledge.

3 Q. Or in middle schools?

4 A. Not to my knowledge.

5 Q. Or in elementary schools?

6 A. Other than Smoke-Free Class of 2000,  
7 which is an annual program.

8 Q. But that's not a statewide intervention,  
9 is it?

10 A. It is a statewide intervention. The  
11 schools can -- the classes can decide if they  
12 choose to participate or not.

13 Q. It's voluntary?

14 A. It's voluntary.

15 Q. There is no preventative program that  
16 has been included in the curriculums in K through  
17 12 in Mississippi, is there?

18 A. Not to --

19 Q. Concerning tobacco prevention or the  
20 risks of tobacco?

21 A. Other than what I told you that is in  
22 the comprehensive school health curriculum, to my  
23 knowledge, there is not.

24 Q. And smoking, I believe you said earlier,  
25 among youth in Mississippi has not decreased,

1 A. I think I gave you a simple answer.

2 Q. Well, I'm entitled to a yes or no  
3 answer. Have the interventions established by the  
4 Mississippi State Department of Health been  
5 successful in reducing smoking in elementary  
6 schools?

7 A. I can't answer that because I have  
8 nothing to measure what's going on in elementary  
9 schools.

10 Q. How about middle schools?

11 A. I have nothing to measure that.

12 Q. How about high schools?

13 A. From YRBS there has been an increase in  
14 smoking among high schools students in  
15 Mississippi.

16 Q. So the answer to my question is no. It  
17 has not been successful, correct?

18 A. I'm still not going to answer that "yes"  
19 or "no."

20 Q. What are the interventions with the  
21 media that you're referring to here?

22 A. We have developed public service  
23 announcements at the State Department of Health  
24 relating to youth and tobacco use and referring to  
25 a law that went into effect in 1994 that makes it

1 illegal to sell tobacco products to minors and  
2 provides enforcement.

3 We have also worked with the media on a  
4 number of initiatives that have been ongoing such  
5 as the Camel Chase program.

6 We have what I consider to be a good  
7 media advocacy relationship in that when the media  
8 is aware of something that's going on with  
9 tobacco, they automatically pick up the telephone  
10 and call someone at the State Department of Health  
11 for further information.

12 Q. Who is the liaison between the media and  
13 the Mississippi State Department of Health?

14 A. Dr. Thompson and/or Dr. Hotchkiss and/or  
15 Dr. Mary Currier.

16 Q. Any other interventions targeting the  
17 media?

18 A. That's generally it.

19 Q. Has there been any investigation to  
20 determine the efficacy of those interventions?

21 A. I have not conducted an investigation.

22 Q. Do you know if anyone has?

23 A. I do not.

24 Q. Are you aware of any statistics that  
25 would reflect the efficacy of those programs

1 compiled by anyone?

2 A. I'm not aware of any statistics. I'm  
3 aware of some articles that have been written, one  
4 in particular that's been produced by the Office  
5 on Smoking and Health at the Centers for Disease  
6 Control that indicates that media advocacy is  
7 effective in reducing or in creating awareness  
8 that will ultimately result in reducing tobacco  
9 use among youth.

10 Q. That's a nation-wide study?

11 A. I don't know that it's a study. It's an  
12 article.

13 Q. Not based on any Mississippi statistics?

14 A. I don't know that.

15 Q. Other than that article, are you aware  
16 of anything else?

17 A. I'm not.

18 Q. All right. Any other interventions  
19 targeting communities? What are they?

20 A. I have read information from regional  
21 and national sources that refer to community  
22 interventions that I believe have been effective  
23 that I would like to replicate in Mississippi if I  
24 could find funding and resources to do so.

25 Q. And what would they be?

1 A. Some of those are mass educational  
2 campaigns from merchants. We've talked about that  
3 in detail. I have no -- no funds to mail all the  
4 materials that I would like to mail to the  
5 merchants in a similar manner to the mailings that  
6 the tobacco industry is capable of doing.

7 I would like to provide training to  
8 merchants to let them be aware of the fact that it  
9 is illegal to sell tobacco products to minors, not  
10 only the legality, but the health risk associated  
11 with youth using tobacco products.

12 Q. But those are things that you would like  
13 to do as opposed to things that are actually being  
14 done?

15 A. Yes, and I don't believe I stated that I  
16 was going to provide information about things that  
17 are being done. This says, "I will provide  
18 information about health promotion research  
19 related to prevention, etcetera, etcetera."

20 The information I'm talking about is  
21 regional and national information that I have  
22 read.

23 Q. Have you told me all of the things that  
24 you would like to do from a community basis in  
25 terms of targeting intervention or interventions

1 targeting communities?

2 MR. YOUNG: She's talking about the  
3 research section right now.

4 A. I've given you one example of something  
5 that I've read that I would like to do.

6 Q. Are there others?

7 A. I'm sure that there are other community  
8 based programs. I would like to be able to go  
9 into every community in the State, into every  
10 civic club meeting and make presentations and  
11 discuss with people.

12 I would like to have local coalitions.  
13 I've read information that indicates that local  
14 coalitions scattered throughout the State would be  
15 highly effective in reducing tobacco use.

16 Q. But those do not exist now?

17 A. Those do not exist now. I'm working  
18 with two communities right now to establish  
19 coalitions.

20 Q. Any other things you've read concerning  
21 interventions targeting communities that you  
22 expect to testify about at trial?

23 A. Not that I can think of at this time.

24 Q. What about interventions targeting  
25 environmental programs? First, what do you mean

Page 426

Page 428

1 by "environmental programs?"

2 A. What I'm talking about there is the --

3 scattered throughout Mississippi, if you travel

4 the streets and the highways and byways, you will

5 see advertisements on the environment. You'll see

6 tobacco ads everywhere. You'll see as many

7 tobacco ads as you do trees in this state.

8 I would like to have the funds to

9 conduct programs in the communities to make people

10 aware of the environment around them that's being

11 infiltrated by the tobacco industry.

12 Q. There are no restrictions on tobacco

13 advertising in Mississippi?

14 A. There are not now. I wish there were.

15 Q. And indeed, Mississippi State Department

16 of Health has not lobbied for restrictions on

17 advertising, correct?

18 MR. YOUNG: Object to the form. That

19 assumes that that's their duty to do that.

20 Q. (By Mr. Burton) Putting aside whether

21 or not it's their duty, have they done it?

22 A. I have not done it.

23 Q. Do you know any state agency that's done

24 it?

25 A. In Mississippi?

Page 427

1 Q. Yes, ma'am.

2 A. I do not know.

3 Q. Are you aware that any have done it?

4 You can't tell me, you can't identify any state

5 agency?

6 A. I cannot.

7 MR. BURTON: Why don't we take a break

8 here for lunch. She says here in the next

9 sentence that she's going to provide a list of

10 Tobacco Control training sponsored or facilitated

11 by the Mississippi State Department of Health.

12 I'd like to get that list, if I can.

13 MR. YOUNG: It's not a written list.

14 Q. (By Mr. Burton) It's not a written

15 list?

16 A. I don't have a list.

17 Q. You don't have a list?

18 A. I don't have a list.

19 Q. Do you have a list in your head?

20 A. I do.

21 MR. BURTON: Why don't we take a break

22 here for lunch anyway because I'd like to get the

23 materials from her car that she said she reviewed

24 in connection with her preparation for this

25 deposition.

1 (A lunch break was taken.)

2 Q. (By Mr. Burton) Ms. Grubbs, I think you

3 brought with you this afternoon some documents

4 that you had in a folder in your car which I

5 understand to be documents that you reviewed in

6 preparation for today's deposition; is that

7 correct?

8 A. Not necessarily. There are documents

9 that I pulled to review, but some of them I did

10 not review.

11 Q. Okay.

12 (Exhibit 27 marked for identification.)

13 Q. Can you tell me what that document is

14 that's been marked as Exhibit 27?

15 A. This is expenditures for tobacco control

16 by states. I received it from the Association of

17 State and Territorial Health Officials.

18 Q. And it shows expenditure by states in

19 1990, '92 and '94?

20 A. Correct.

21 Q. And it shows that the State of

22 Mississippi spent zero state dollars in 1990, '92

23 and '94 for Tobacco Control; is that correct?

24 A. Can I see it? That's correct.

25 Q. And then it shows -- I don't have it in

Page 429

1 front of me -- 25,000 in federal funds in 1990,

2 30,000 in 1992, and 116,000 in 1994?

3 A. That's correct.

4 Q. And the federal funds is a result of

5 grants?

6 (Off the record.)

7 Q. (By Mr. Burton) Mark this if you would,

8 please, ma'am?

9 (Exhibit 28 marked for identification.)

10 Q. Can you identify Exhibit 28 for me?

11 A. It is a fax that I received from the

12 Mississippi State Tax Commission.

13 Q. It is a letter from Cathy Waterberry to

14 you dated November 1, 1996?

15 A. It is.

16 Q. I'm not going to mark this. This

17 appears to me to be a duplicate?

18 A. The original I received in the mail

19 later.

20 Q. If you don't mind, I'm just going to use

21 this. It sets forth on page 1 the excise taxes

22 collected from cigarette stamps for years 1986

23 through '96; is that correct?

24 A. Correct.

25 Q. And on page 2 it sets forth the total

1 tobacco excise tax collected including license  
2 fees, other tobacco products, and cigarette stamps  
3 for 1981 through 1985, correct?

4 A. Correct.

5 Q. Why were you requesting this  
6 information?

7 A. I requested it for Dr. Thompson hoping  
8 to receive it prior to his deposition. He thought  
9 this might be something he needed to be familiar  
10 with. I did not receive it prior to his  
11 deposition, so it --

12 Q. Did he tell you why he thought he might  
13 need it in contemplation of his deposition?

14 A. He did not.

15 (Exhibit 29 marked for identification.)

16 Q. Okay. Before we go to Exhibit 29 -- So  
17 you did not rely in any way on Exhibit 28 in  
18 preparation of your testimony today?

19 A. I did not.

20 Q. Nor did you rely on Exhibit 27 in any  
21 way in connection with your testimony today?

22 A. I brought that in -- in the event that I  
23 needed to talk about budgeting in my program. I  
24 have not recalled it to memory, but I had that and  
25 the Exhibit that I'm holding in my hand for that

1 A. Funds from Preventive Health and Human  
2 Services block grant.

3 Q. All right. Which is federal funding?

4 A. Correct.

5 (Exhibit 30 marked for identification.)

6 Q. Can you identify that document for me  
7 which has been marked as Exhibit 30?

8 A. It is a draft of the Tobacco Prevention  
9 Control Plan.

10 Q. Can you tell whether or not it is the  
11 same draft that was marked as Exhibit 15?

12 A. It also includes a copy of my resume. I  
13 don't know if you intended it to do that or not.

14 Q. No, you should take the resume out.

15 A. I would have to compare it. It is a  
16 very similar document, if not the exact same.

17 Q. Was that printed out more recently than  
18 June 21st, 1996?

19 A. Yes, it was.

20 Q. Did you work on the State Tobacco  
21 Control Plan between June 1996 and today?

22 A. I have done minimal amount of work on it  
23 since then.

24 Q. And the work that you have done was on  
25 your computer screen?

1 purpose.

2 Q. What is the Exhibit you're holding in  
3 your hand, which is Exhibit 29?

4 A. It's the amount of monies the Tobacco  
5 Prevention Program has received through the IMPACT  
6 cooperative agreement with the Centers for Disease  
7 Control.

8 Q. And this shows \$80,396 in '94, \$76,826  
9 in '95, and \$76,789 in '96, and \$78,304 in '97 as  
10 what has been requested, correct?

11 A. Correct.

12 Q. Now, these funds from IMPACT are in  
13 addition to -- and let's take 1994 because that's  
14 what's shown on Exhibit 27. There's a \$116,000  
15 federal fund or other funds in '94 for Tobacco  
16 Control that was received by the State of  
17 Mississippi according to Exhibit 27, correct?

18 A. Correct.

19 Q. Is that in addition to the \$76,826  
20 that's shown on Exhibit 29?

21 A. No, it includes that.

22 Q. What is the source of the additional  
23 funds making up the difference between \$116,000  
24 shown on Exhibit 27 and the \$76,000 shown on  
25 Exhibit 29?

1 A. Yes, it was.

2 Q. And to the extent that you made changes,  
3 you would have deleted what was there before and  
4 inserted whatever changes you made?

5 A. Correct.

6 Q. So Exhibit 30 would reflect the most  
7 recent iteration of the State Tobacco Prevention  
8 and Control Plan?

9 A. That's correct.

10 Q. I don't need to mark this. If you would  
11 take a look at this document, it appears to me to  
12 be a copy of the resume that was marked as  
13 Exhibit 1.

14 A. It appears to be.

15 Q. Okay.

16 (Exhibit 31 marked for identification.)

17 Q. Could you identify for me the document  
18 that has been marked as Defendants' Exhibit 31?

19 A. It is a fax that I received this week  
20 from ASTHO on state tobacco use prevention control  
21 activities dated 1994.

22 Q. And why did you request that document?

23 A. I was working on something at my office  
24 and thought this might be helpful to me, and I  
25 called and asked for it, and they didn't have it



Page 434

Page 436

1 in bound form, so they faxed me these pages.  
2 Q. Did you rely on that document in  
3 preparation for your deposition today?  
4 A. This is the first time I've opened it  
5 since I received it on the fax machine.  
6 Q. So the answer is no?  
7 A. No.  
8 Q. Do you anticipate relying on that  
9 information to formulate any of the opinions you  
10 expect to give in this case?  
11 A. Give me just a moment to look through  
12 it. (Examining.)  
13 MR. YOUNG: Also note for the report  
14 that to the extent it's a publicly available  
15 document in medical literature, but disclosed in  
16 her expert disclosure statement.  
17 A. This refers to expenditures for tobacco  
18 control by source of funds. If I am asked to  
19 discuss budgeting for Tobacco Control in  
20 Mississippi, then I would rely on this.  
21 Q. I do not see budgeting for tobacco  
22 control on your expert disclosure sheet.  
23 A. It is not on there.  
24 Q. Do you anticipate giving any testimony  
25 in this case concerning budgeting?

Page 435

1 A. I do not.  
2 Q. Other than what use that document might  
3 be to you in support of or in providing  
4 information for budgeting, do you expect to rely  
5 on that document for any other basis in connection  
6 with your testimony?  
7 A. Well, wait just a moment. Let me  
8 correct my last statement. In my disclosure  
9 statement, it says that I will testify as to the  
10 limited effectiveness of tobacco prevention and  
11 control measures due to the limited resources  
12 available to allocate to the problem. So yes, I  
13 do intend to address that.  
14 Q. So you will be relying on that document  
15 in support of your testimony?  
16 A. I will be.  
17 Q. We haven't gotten there in terms of  
18 going through your expert disclosure statement,  
19 correct?  
20 A. Correct.  
21 (Exhibits 32 and 33 marked for  
22 identification.)  
23 Q. Can you identify for me Exhibit 32?  
24 A. It's a report of the Surgeon General,  
25 "Youth and Tobacco, Preventing Tobacco Use Among

1 Young People."  
2 Q. Did you rely on that document in the  
3 formulation of any of the opinions that you have  
4 given today?  
5 A. No, I did not.  
6 Q. Do you expect to rely on that document  
7 in the formulation of any of the opinions you  
8 expect to give at trial?  
9 A. Yes, I do.  
10 Q. And what opinions are they?  
11 A. This pertains to the things that I have  
12 on my disclosure statement about the prevalence of  
13 smoking status.  
14 Q. This goes back up to the first -- to the  
15 second full paragraph where you say you will  
16 discuss the prevalence of smoking and the  
17 demographics of smokers by age, race, and gender  
18 among Mississippi adults and high school students?  
19 A. Correct.  
20 Q. What portions of that are you going to  
21 rely on to formulate whatever opinions you are  
22 going to render with respect to smoking and  
23 demographics?  
24 A. Well, let's say that I'm going to have  
25 to say the entire document. I haven't had -- I

Page 437

1 have not looked through the document, so I cannot  
2 pull out certain portions.  
3 Q. Do you anticipate giving opinions with  
4 respect to specific statistics of prevalence based  
5 on age, race, and gender at trial of this case?  
6 MR. YOUNG: I want to object here.  
7 We've been over this. She's getting the  
8 documents. They're on their way, and we can  
9 address that, go back up to that area and let her  
10 do that once the documents get here.  
11 Q. (By Mr. Burton) Do you anticipate  
12 giving statistical opinions with respect to  
13 prevalence of smoking among Mississippi adults and  
14 children?  
15 MR. BURTON: Just let her answer the  
16 questions.  
17 MR. YOUNG: Hold on. I'm going to  
18 object to the form on that. You've stated on the  
19 record that she's going to recite or give a  
20 recitation of the facts that are in these  
21 reports.  
22 MR. BURTON: I haven't stated anything  
23 on the record. I've asked questions.  
24 MR. YOUNG: Yes.  
25 A. Yes.

Page 438

Page 440

1 Q. (By Mr. Burton) And in formulating  
2 those statistical opinions, whatever they may be,  
3 are you going to rely on Exhibit 32?

4 A. To some extent, I am.

5 Q. Can you point to me what statistics you  
6 are going to provide out of Exhibit 32 as you sit  
7 here today?

8 A. If you'll give me a moment.  
9 (Examining.)

10 Q. Do you want to take a break and read  
11 it?

12 MR. YOUNG: She's not going to read the  
13 whole document. She's relying on the entire  
14 document.

15 MR. BURTON: Well, Lee, I'm entitled to  
16 ask her what her opinion is and what her  
17 statistical opinion is. And if she doesn't know  
18 it, she doesn't know it. And it's not a fair  
19 answer --

20 MR. YOUNG: I don't know that she's  
21 giving opinions necessarily or facts from the  
22 reports. You can ask her if she's got any  
23 opinions about them.

24 A. There -- chapters 1, 2, and 3 relate to  
25 the data that I'll be reading and reviewing in

1 A. I can do that when I have at my disposal  
2 the Youth Risk Behavior Surveys for the past  
3 several years.

4 Q. All I'm trying to do, Ms. Grubbs, is  
5 find out -- what I want to do is when we leave  
6 today I want to know what your opinion is. And if  
7 you don't know what your opinion is, that's okay.  
8 I'm going to reserve the right to come back and  
9 ask you some more questions --

10 A. My opinion --

11 Q. -- but what I'm trying to determine is  
12 not that you're just going to give a general  
13 opinion with respect to the increase in smoking  
14 among youth in Mississippi, but whether at trial  
15 you anticipate giving a more specific opinion.  
16 And if you are anticipating giving a more specific  
17 opinion that includes statistical references,  
18 percentages of increase over some number of years,  
19 I want to know what that is.

20 And if you can't do that today, that's  
21 fine. But that's the purpose of these questions  
22 is to find out what your opinion is that you  
23 expect to give at trial.

24 A. My opinion will be that in 1993, 28  
25 percent of Mississippi youth in grades 9 through

Page 439

Page 441

1 regard to that statistical opinion that I'll be  
2 testifying to.

3 Q. Rendering?

4 A. Rendering.

5 Q. Do you know what that statistical  
6 opinion is as you sit here today?

7 A. The literature that I've read lately  
8 indicates that the -- that youth tobacco use is on  
9 the increase in Mississippi and in the United  
10 States.

11 I do not -- I have not studied national  
12 data recently. I assume that that's what this is  
13 since it's a report of the Surgeon General. I  
14 need to take the time to study it so that I can  
15 make some comparisons between it and what's going  
16 on in Mississippi. That appears to be what's in  
17 chapters 1, 2, and 3.

18 Q. I understand you're going to give a  
19 general opinion that smoking among youth is  
20 increasing; is that correct?

21 A. That's correct.

22 Q. Do you also anticipate giving an opinion  
23 that is more specific than that, i.e., that has  
24 increased by X percentage in Mississippi over some  
25 number of years?

1 12 were recurrent smokers. In 1995, 35 percent of  
2 Mississippi youth in grades 9 through 12 were  
3 recurrent Mississippi smokers.

4 Q. And that's the extent of your opinion  
5 with respect to the increase of smoking prevalence  
6 among youth?

7 A. That is the percent today as far as  
8 numbers go. I do not know what the numbers before  
9 1993 reflected.

10 Q. Do you anticipate going back and looking  
11 at those before you testify at trial?

12 A. I certainly do. I do.

13 Q. And do you anticipate testifying at  
14 trial as to what those numbers may be based upon  
15 your investigation?

16 A. I do.

17 Q. And you can't do that today, can you?

18 A. I cannot.

19 MR. YOUNG: I'm going to object. We  
20 just told you the documents are on their way.

21 MR. BURTON: If she can do it today,  
22 that's fine. I don't have anymore questions about  
23 that Exhibit.

24 MR. YOUNG: I think you need to ask  
25 her -- she's never been an expert before, and

Page 442

1 you've heard her testify about that. When you sit  
2 here and say she's going to give opinions about  
3 things, it has a different connotation to her than  
4 what it would a normal hired expert. Now, she's  
5 going to tell you what the facts are out of these  
6 particular treatises or books and publications.  
7 To say that that's her opinion, you need to ask  
8 her if it's her opinion or if it's stated fact.  
9 And I think that's where y'all may be  
10 miscommunicating. And I'm just trying to make the  
11 record clear so we don't have to come back and  
12 depose her again.

13 Q. (By Mr. Burton) Is your opinion, with  
14 respect to smoking prevalence in Mississippi,  
15 going to be something different than is reflected  
16 in this document or the documents that are coming  
17 this afternoon?

18 A. No.

19 Q. So is your opinion, with respect to  
20 smoking prevalence, going to be nothing more than  
21 reciting the statistics that appear in these  
22 reports?

23 A. It's going to be based on that, and it's  
24 going to be based on my personal knowledge of my  
25 personal experience working in communities and

Page 443

1 schools.

2 Q. I'm not asking what the opinion is based  
3 on. I'm asking what the opinion is.

4 MR. YOUNG: Like percentages.

5 Q. Is your opinion, with respect to smoking  
6 prevalence, going to be nothing more than reciting  
7 the statistics that appear in Exhibit 32 and the  
8 YRBS studies for '93 and '95 which I understand  
9 are on their way here today?

10 A. No.

11 Q. What else is your opinion going to  
12 include?

13 A. You asked me if it was going to be based  
14 on only that.

15 Q. No, I didn't ask whether it was based  
16 on. I said whether your opinion, not what it's  
17 based on. You're going to render an opinion, as I  
18 understand it, Ms. Grubbs, that says smoking has  
19 increased in Mississippi as follows: X percentage  
20 in '93, Y percentage in '95; is that correct?

21 A. Correct.

22 Q. Now, is your opinion in that regard  
23 going to be nothing more than reciting the  
24 statistics that come out of the YRBS reports?

25 A. That is what I am going to do.

Page 444

1 MR. YOUNG: It's not your fault. You've  
2 just never done this before.

3 Q. (By Mr. Burton) With respect to all of  
4 the statistical opinions that you expect to render  
5 in this case, whether they be based on the YRBS or  
6 the BRFS as to the statistical opinion, is it  
7 going to be based on nothing more than reciting  
8 the statistics that you find in the YRBS or the  
9 BRFS reports, whichever may be appropriate?

10 A. That is what I am going to do.

11 Q. Are you going to recite statistical  
12 opinions based on any other documents than those  
13 two?

14 A. I might use this document. I do not  
15 know what's in there now. I cannot tell you that  
16 I will.

17 Q. Exhibit 32?

18 A. Exhibit 32.

19 Q. Other than the YRBS, the BRFS,  
20 Exhibit 32, and with the assistance of counsel, I  
21 understand you now have found some others?

22 MR. YOUNG: I was showing her a  
23 disclosure statement.

24 A. I'm going to restrict it to the Surgeon  
25 General's reports, BRFS and YRBS.

Page 445

1 Q. In Exhibit 32?

2 A. That is a Surgeon General's report.

3 Q. Does your personal experience as Tobacco  
4 Prevention Control Coordinator over the last five  
5 years confirm the data that's appeared with  
6 respect to smoking prevalence in the YRBS reports?

7 A. It does.

8 Q. The last document, which is Exhibit 33,  
9 can you identify that for me?

10 A. It is "Youth Access to Tobacco," a guide  
11 to developing policies, that was provided by the  
12 ASSIST program.

13 Q. Have you relied on that document in the  
14 formulation of any of your opinions in this case?

15 A. I have not.

16 Q. Did you review that document in  
17 connection with your testimony in this case?

18 A. I did not.

19 Q. How did it happen to be in the folder,  
20 then?

21 A. I pulled it intending to review it. I  
22 pulled it from the clearing house.

23 Q. Do you know when this document was  
24 prepared?

25 A. I do not. It was produced through the

1 document and records production.  
 2 Q. This is prepared by the Americans for  
 3 Nonsmokers' Rights?  
 4 A. It appears to be.  
 5 Q. Do you consider this authoritative  
 6 document with respect to youth access to tobacco?  
 7 A. I haven't read the document. I consider  
 8 ANR to be a credible source.  
 9 Q. Is there some document that you consider  
 10 to be particularly authoritative in the area of  
 11 tobacco control and prevention?  
 12 A. Surgeon General's reports.  
 13 Q. Anything else?  
 14 A. "Tobacco Control Journal" that I receive  
 15 at the office.  
 16 Q. What is that?  
 17 A. That's the title of it, "Tobacco  
 18 Control."  
 19 Q. Who publishes that?  
 20 A. I can't tell you.  
 21 Q. Is it an anti-smoking group?  
 22 A. It is.  
 23 Q. Any other authoritative?  
 24 A. ANR material, ASH materials.  
 25 Q. "ANR" meaning Americans for Nonsmokers'

1 Rights?  
 2 A. Right.  
 3 Q. ASH materials, A-S-H?  
 4 A. Correct.  
 5 Q. What does that stand for?  
 6 A. I can't tell you. It will come to me.  
 7 Q. Can you give me an example of their  
 8 publications?  
 9 A. They deal with legal and political  
 10 issues, give legal opinions on -- if a state  
 11 contacts them and says, "This is going on in the  
 12 State." then they help them out with legal issues,  
 13 questions.  
 14 Q. Any other authoritative journals or  
 15 publications for tobacco control in your judgment?  
 16 A. JAMA.  
 17 Q. Journal of American Medical Association?  
 18 MR. YOUNG: You want to look through  
 19 here at the documents that have been produced?  
 20 A. Any document that the Office on Smoking  
 21 and Health releases consider to be authoritative.  
 22 I also rely on materials that I receive  
 23 from the American Cancer Society, American Heart  
 24 Association, American Lung Association.  
 25 Q. Do you rely on any materials put out by --

1 any of the tobacco companies?  
 2 --A. No, I do not. Not if I know it, I  
 3 don't.  
 4 Q. Is it fair to say that the materials  
 5 that you rely on come from anti-smoking groups?  
 6 A. It is.  
 7 Q. Do you consider yourself an anti-smoking  
 8 activist?  
 9 A. I do.  
 10 Q. Do you anticipate reviewing Exhibit 33  
 11 at any time in anticipation or in connection with  
 12 your anticipated testimony in this case?  
 13 A. I intend to review it in connection with  
 14 my performance of my job.  
 15 Q. So as you sit here today, you cannot  
 16 tell us whether this is going to provide the basis  
 17 for any of your opinions in this case?  
 18 A. I cannot.  
 19 Q. I want to go back a moment to the  
 20 factors which contribute to adolescent smoking  
 21 that we talked about. And you had five -- one,  
 22 peer pressure; two, advertising; three, family  
 23 role modeling; four, access to tobacco; five,  
 24 societal acceptance.  
 25 What, in your judgment, would be the

1 most effective ways of reducing advertising, that  
 2 is the advertising that you're referring to here  
 3 as a factor that contributes to adolescent  
 4 smoking.  
 5 MR. YOUNG: I'm going to object to the  
 6 form. Are you talking about her expert opinion on  
 7 it?  
 8 MR. BURTON: Yes.  
 9 MR. YOUNG: If you have one.  
 10 A. I've already stated that I'm not an  
 11 expert on advertising. I do not know that I can  
 12 answer the most effective way to eliminate  
 13 advertising.  
 14 Q. (By Mr. Burton) The answer is "You  
 15 don't know?"  
 16 A. I don't know.  
 17 Q. What, in your opinion, would be the most  
 18 effective ways to reduce youth access to tobacco?  
 19 A. Youth access?  
 20 Q. Yes, ma'am.  
 21 A. I would have to agree with the Surgeon  
 22 General's report that said one of the most  
 23 effective ways would be to increase excise taxes  
 24 and/or the cost of cigarettes.  
 25 -- Q. What other ways do you think would be

Page 450

Page 452

1 important in reducing youths' access to tobacco?  
2 A. I believe an enforcement of the law that  
3 makes it illegal to sell to minors. I believe  
4 that consideration might need to be given to  
5 wording in legislation that makes it illegal for  
6 minors to possess tobacco. And I have never  
7 believed that legislation is the total answer. I  
8 believe education -- I'm back to education,  
9 providing education to parents, teachers, business  
10 leaders, and youth will create an awareness and a  
11 concern among the public. And tobacco simply will  
12 not be available to youth.  
13 Q. With respect to number one, raising  
14 excise taxes, I think we established yesterday  
15 that the Mississippi State Department of Health  
16 has not suggested that excise taxes in Mississippi  
17 on cigarette taxes be raised, correct?  
18 A. I have not suggested it.  
19 Q. To your knowledge, has the Mississippi  
20 State Department of Health?  
21 A. Not to my knowledge.  
22 Q. And I think, with respect to enforcement  
23 of the law, we established yesterday that in your  
24 view the enforcement of the law in Mississippi has  
25 essentially been nonexistent; isn't that correct?

Page 451

1 A. That's correct.  
2 Q. And what has the Mississippi State  
3 Department of Health done to try to increase  
4 enforcement of the law in Mississippi?  
5 A. We have collaborated with the Department  
6 of Mental Health in working out a plan, developing  
7 a plan for compliance with House Bill 1268, and  
8 with rules and regulations regarding Synar.  
9 Q. This would have been House Bill 1268  
10 that was passed in 1994?  
11 A. Correct.  
12 Q. And the Synar Amendment was passed in  
13 1993?  
14 A. I believe.  
15 Q. Is that plan reduced to writing?  
16 A. Pardon?  
17 Q. Is that plan that you developed with the  
18 Department of Mental Health reduced to writing?  
19 A. It has been.  
20 Q. Has it been produced in this litigation?  
21 A. I did not produce it. I did not develop  
22 it.  
23 Q. Who developed it?  
24 A. The Department of Mental Health.  
25 Q. Can you describe it for me?

1 A. It talks -- it describes the protocols  
2 for conducting compliance checks, and then it  
3 describes the compliance checks that were  
4 conducted, and then there's an evaluation summary  
5 of those checks.  
6 Q. This is the plan that's required by  
7 Synar?  
8 A. Correct.  
9 Q. I was under the impression that you  
10 testified that you had developed a plan separate  
11 and distinct from the plan required under Synar.  
12 Am I mistaken?  
13 A. The only plan that I have developed is  
14 the Tobacco Prevention and Control Plan that is  
15 now in draft form.  
16 Q. And the only plan that you know of in  
17 the State of Mississippi dealing with increased  
18 enforcement of the law prohibiting the sale of  
19 cigarettes to minors is this plan that has been  
20 prepared in response to the Synar Amendment?  
21 A. It's the only one I know of.  
22 Q. And that was prepared by the Department  
23 of Mental Health?  
24 A. Correct.  
25 Q. Are you aware of a single prosecution

Page 453

1 for violation of the sale of cigarettes to minors  
2 in Mississippi at any time?  
3 A. I'm not.  
4 Q. The third way you mentioned to increase  
5 or decrease youth access to tobacco would be new  
6 legislation, if I understood you correctly, making  
7 it a crime to possess tobacco products?  
8 A. Pardon me?  
9 Q. I thought that's what you said. You  
10 didn't say that?  
11 A. I don't know. What are you referring  
12 to? You're -- I took a little vacation there.  
13 Q. That's okay. I do it all the time.  
14 A. Let's go back.  
15 Q. I had asked you to list the ways you  
16 thought that access --  
17 A. Okay, I'm with you.  
18 Q. -- to tobacco could be curtailed in  
19 Mississippi?  
20 A. I do believe that is a way to curtail  
21 sale of tobacco to minors, access to minors.  
22 Q. And has the Mississippi State Department  
23 of Health suggested that legislation making it a  
24 crime to possess tobacco products be passed?  
25 A. Not to my knowledge.

Page 454

Page 456

1 Q. And why is that?

2 A. I do not know why.

3 Q. The fourth item that you mentioned as a

4 means to reduce youth access is education to

5 parents, teachers, and youth, correct?

6 A. Correct.

7 Q. And that is what we've been talking

8 about this morning insofar as your efforts of your

9 office over the last four years?

10 A. It is that, and it is the desire -- it

11 includes the desire to find funding to help us get

12 out there and actually provide education, to

13 provide information.

14 Q. Any other factors that you can think of

15 as you sit here that would be effective in

16 reducing youth access?

17 A. I believe those are the major factors.

18 Q. Okay. Let's go back to your expert

19 disclosure statement. You say here in about a

20 third of the way down in the long paragraph in the

21 middle, "Ms. Grubbs will provide a list of tobacco

22 prevention training sponsored or facilitated by

23 the Mississippi State Department of Health."

24 And if I understand correctly, you do

25 not have a written list, but you have that list in

Page 455

1 your head?

2 A. That's correct.

3 Q. What is it?

4 A. In 1989, we provided smoking cessation

5 facilitator training to state agencies and

6 businesses.

7 Q. Okay.

8 A. In 1994, regional training was provided

9 which included youth for Mississippi on methods to

10 reduce the access of tobacco products to youth and

11 peer resistance skills and peer leadership

12 skills.

13 In 1993, "Tobacco Road: It's a Dead

14 End" was conducted at four sites throughout

15 Mississippi to adults and youth, primarily from

16 the school system and the communities, which

17 included -- that particular training was a one-day

18 training -- and included several components, peer

19 resistance, peer leadership, decision making,

20 awareness.

21 In 1995, four smoking cessation

22 facilitator trainings were conducted around the

23 State.

24 In 1995, "Health: It's a Class Act"

25 workshops were presented throughout the State.

1 That included a strong component on tobacco

2 prevention.

3 Q. You were referring to something to

4 refresh your recollection?

5 A. My resume.

6 Q. What part of your resume?

7 A. Under "Trainings."

8 Q. Okay.

9 A. I have -- I've listed the trainings that

10 I considered to have been training workshops. I

11 have conducted presentations that were of shorter

12 duration that might be considered training by

13 some, but I have listed them on my resume under

14 "presentations."

15 Q. Okay. So when you say in your expert

16 witness disclosure that you will provide a list of

17 the tobacco prevention training sponsored or

18 facilitated by the Mississippi State Department of

19 Health, you are referring to the sections on your

20 resume under training and presentations?

21 A. Plus I have added some to that that are

22 not on here, the 1989 smoking cessation

23 facilitator training being one of those.

24 Q. Now, you weren't with the Mississippi

25 State Department of Health in 1989, correct?

Page 457

1 A. Yes, I was. For six months I worked in

2 Health Promotion. Are you taking a vacation?

3 Q. I don't think so.

4 A. Maybe it was 1990 that I was in Health

5 Promotion.

6 Q. I think it was 1990.

7 A. I was with the State Department of

8 Health in '89. Okay. But I was in Health

9 Promotion in 1990.

10 Q. That was when you were a legal

11 secretary?

12 A. That's correct. I'm sorry. Wrong date.

13 Q. The "Tobacco Road: It's a Dead End"

14 training was the one-day seminars that you

15 conducted at four locations throughout the State?

16 A. Correct.

17 Q. Do you remember where those locations

18 were?

19 A. Tupelo, Greenwood, Hattiesburg, and

20 Jackson.

21 Q. And those are the programs that you said

22 included peer resistance skills, peer leadership

23 skills, that sort of thing --

24 A. Correct.

25 Q. -- conducted by yourself and people from

Page 458

Page 460

1 DREAM, if I remember correctly?

2 A. I had no part in conducting them.

3 Susan Lloyd from our office and the staff from

4 DREAM conducted them.

5 Q. The regional training that you referred

6 to in 1994, I don't see that under training on

7 your -- at least that I can identify on your

8 resume?

9 A. "Let's Stop Kidding About Tobacco."

10 Q. That's what you were referring to when

11 you said regional training a moment ago?

12 A. Correct.

13 Q. And that, again, was essentially the

14 same training program as "Tobacco Road: It's a

15 Dead End?"

16 A. No.

17 Q. What was the difference?

18 A. "Let's Stop Kidding About Tobacco" was

19 nine Southeastern states, the Southeastern Tobacco

20 Prevention STOP Network. Participants came,

21 brought youth from each of those states. And we

22 highlighted, showcased what's going on in those

23 states.

24 Q. Was it held in Mississippi?

25 A. It was held in Atlanta.

Page 459

1 Q. And you took with you children from

2 Mississippi?

3 A. I did.

4 Q. How many?

5 A. Four.

6 Q. And how old were they?

7 A. They were high school. And let me

8 clarify that. I did not take them with me. They

9 went with adults from Mississippi.

10 Q. Did you attend the conference?

11 A. I did.

12 Q. Was that a one-day conference as well?

13 A. It was a two-and-a-half-day conference.

14 Q. Was there an agenda from that

15 conference?

16 A. There is an agenda. It was produced.

17 Q. The 1989 smoking cessation facilitator

18 training, I think we've established, was really

19 1990?

20 A. 1990.

21 Q. And this was the training that you

22 testified earlier about that has resulted in

23 training approximately 100 facilitators?

24 A. That training, in combination with the

25 smoking cessation facilitator training that was

1 held in 1995, combined resulted in that number of

2 people being trained.

3 Q. Those were the four smoking cessation

4 training programs that you mentioned?

5 A. Correct.

6 Q. And then "Health: It's a Class Act,"

7 what's that?

8 A. That was a workshop sponsored by the

9 Division of Health Promotion and Education in

10 which primarily dealt with school health, but

11 tobacco was a large component of it. The

12 workshops were held in possibly four locations

13 around the State.

14 Participants were provided with didactic

15 information and then were given an opportunity.

16 Q. What kind of information?

17 A. Didactic.

18 Q. Didactic information, what do you mean

19 by that?

20 A. Are you kidding?

21 MR. YOUNG: He doesn't kid.

22 A. We lectured, gave lectures. Where was

23 I?

24 Q. (By Mr. Burton) You were telling us

25 about "Health: It's a Class Act," and you said it

Page 461

1 was didactic.

2 A. Yeah, we provided didactic information,

3 and then they broke into small groups and

4 developed plans to go back to their school

5 districts and/or school boards and work on

6 initiatives to get comprehensive school health

7 programs integrated into the school system.

8 Part of that included tobacco prevention

9 in each and every of the settings in which the

10 workshops were held.

11 Q. Were there written materials?

12 A. Yes.

13 Q. Were the documents among those produced?

14 A. I do not know.

15 Q. How would you describe these materials?

16 A. There is a binder somewhere or a file

17 somewhere at the Health Department that has all

18 the materials that went into developing the

19 workshops and the participant, the sign in sheets

20 of participants that came, and the agenda.

21 Q. Would you check for me and see whether

22 that's been produced?

23 A. How am I going to know? Where's that

24 list? Is that how I'm going to know? I've got to

25 read that list to know?

Page 462

Page 464

1 Q. I can't help you. I don't know whether  
2 it's been produced or not.  
3 MR. YOUNG: Would you assume it's been  
4 produced? As part of the tobacco stuff?  
5 A. See, it's not in -- it may not be --  
6 have been, because it's not in my possession in my  
7 office.  
8 MR. YOUNG: Just give us the name of  
9 it.  
10 MR. BURTON: It's called "Health: It's  
11 a Class Act."  
12 MR. YOUNG: If it's not been produced,  
13 we'll give it to you.  
14 Q. (By Mr. Burton) The presentations on  
15 your resume we talked about earlier today, and it  
16 was my impression, and maybe I was wrong, that  
17 those were oral presentations that you gave and  
18 there were not written presentation materials?  
19 A. This is correct, but there were --  
20 during some of those presentations, there were  
21 break-out sessions for people participated --  
22 where the participants participated. It wasn't  
23 just me talking.  
24 Q. I understand. But were there written  
25 materials in connection with these presentations?

1 teacher, for instance, how to set up a Jeopardy  
2 board, how to set up a Jeopardy game. It even  
3 gives tobacco-related Jeopardy answers and  
4 questions. And having gone through the training,  
5 the person has seen the Jeopardy game in action,  
6 and now he or she knows how to go back and develop  
7 this particular situation.  
8 Q. How many of these training modules like  
9 Jeopardy are there?  
10 A. I believe there were 6 at this  
11 particular program.  
12 Q. Can you remember what they were other  
13 than the Jeopardy game?  
14 A. I would be guessing. As I told you, I  
15 didn't participate as a trainer in that, and I --  
16 that was produced, however.  
17 Q. In which training program were those  
18 modules used?  
19 A. "Tobacco Road: It's a Dead End."  
20 Q. Well, at trial, are you going to testify  
21 concerning the extent to which those interventions  
22 had been implemented in the State of Mississippi?  
23 A. I can do that.  
24 Q. Well, do you anticipate doing it?  
25 A. I -- yes.

Page 463

Page 465

1 A. No, I typically used the slide  
2 presentation that I mentioned yesterday, the STAT  
3 slide presentation.  
4 Q. Okay. Now, continuing on on Exhibit 23  
5 which is your expert witness disclosure, you say  
6 that you will, "...testify concerning the extent  
7 to which these interventions have been implemented  
8 in Mississippi." What interventions are you  
9 referring to there?  
10 A. In the training program, "Tobacco Road:  
11 It's a Dead End," there were a number of modules  
12 in that training program. Each of those modules  
13 can be pulled individually and implemented in a  
14 classroom setting, or in a community setting, the  
15 girl scout troop, for instance.  
16 I do not have documentation of each and  
17 every time those programs have been presented in  
18 total or in part. But I do know that they have  
19 been disseminated and presented in a variety of  
20 settings around the State following that training  
21 that we provided.  
22 Q. Give me an example of one of these  
23 modules.  
24 A. We play Jeopardy. The module tells a  
25 person, whoever is interested in doing -- a

1 Q. And what is your -- what is your opinion  
2 with respect to the extent to which those  
3 interventions have been implemented in  
4 Mississippi?  
5 MR. YOUNG: I'm going to object to the  
6 form of the question. It's for a fact. It's not  
7 really an opinion. It's either a factual question  
8 of have they been used or have they not been  
9 used. She can have an opinion about that, but if  
10 she can.  
11 Q. (By Mr. Burton) Do you have an opinion  
12 about that?  
13 A. My opinion is that they have been and  
14 are being used to some extent.  
15 Q. Do you anticipate doing additional  
16 research to determine the extent to which they've  
17 actually been implemented?  
18 A. I will have to do that before I can  
19 testify to the extent that they're being used,  
20 yes.  
21 Q. And you're not prepared to do that  
22 today?  
23 A. I'm not prepared.  
24 Q. What would you look at to do that?  
25 --A. I would contact the participants, and I



1 would ask them if they've used the material. I  
 2 would survey the participants.  
 3 Q. Who are the participants?  
 4 A. There were several hundred. I don't --  
 5 I can't name them.  
 6 Q. But that's something you plan on doing  
 7 before trial is surveying those participants?  
 8 A. I may or may not. I'm saying that  
 9 that's how I would -- I would -- to -- in order to  
 10 tell you exactly how this material has been used  
 11 or if it's been used, I would have to do that.  
 12 I know now basically, very generally,  
 13 that it is being used because people are telling  
 14 me that they're using it.  
 15 Q. But this survey, you have not conducted  
 16 yet?  
 17 A. I have not.  
 18 Q. And it would be necessary to conduct  
 19 that survey to have a feel --  
 20 A. To be factual.  
 21 Q. -- for the factual extent to which  
 22 they've been actually implemented?  
 23 A. Correct.  
 24 Q. Other interventions referred to there?  
 25 A. I would also have to go back to my

1 biostatistician.  
 2 Q. Who was that?  
 3 A. Dr. Ed Meydrech. It was produced.  
 4 M-E-Y-D-R-E-C-H.  
 5 MR. BURTON: Can you read back our last  
 6 answer?  
 7 (Record read.)  
 8 Q. Was Amy Day involved in these  
 9 facilitator trainings?  
 10 A. She was a participant at one of them in  
 11 1995. Her name is now Amy Day-Carr.  
 12 Q. C-A-R-R?  
 13 A. Correct.  
 14 Q. Any other interventions that you were  
 15 referring to when you say you will testify  
 16 concerning the extent to which these interventions  
 17 have been implemented in Mississippi?  
 18 A. The "Teens as Teachers" program that I  
 19 mentioned earlier is in the process of being  
 20 implemented in some schools in the Jackson area as  
 21 we speak.  
 22 Q. Any others?  
 23 A. No.  
 24 Q. Go on to say, and I'm not sure what  
 25 "supported by public health efforts" modifies,

1 records of individuals who participated in the  
 2 smoking cessation facilitator classes to see to  
 3 what extent they're using the materials.  
 4 A six-month follow-up survey was  
 5 conducted following that training, and it  
 6 indicated that there had been definitely an  
 7 increase in knowledge because of the training, and  
 8 that there had been some increase in behavior on  
 9 the health -- on the part of health care  
 10 professionals and counseling with patients to not  
 11 smoke.  
 12 Q. But that's a survey or an investigation  
 13 you have not yet done?  
 14 A. The six-month has been done. I would --  
 15 Q. I meant to enable you -- you have not  
 16 done it to enable you to give any factual  
 17 statistics?  
 18 MR. YOUNG: She said it's been done.  
 19 MR. BURTON: I understand that, but she  
 20 has not gone back and reviewed it to enable her to  
 21 testify as to whatever the factual statistics may  
 22 be?  
 23 A. I do not know percentages here today,  
 24 no. But I do have the survey in my office, and  
 25 the results of it were analyzed by a

1 but it says, "Supported by public health efforts  
 2 and evaluated for success." Is that a reference  
 3 to the interventions that they have been supported  
 4 by public health efforts and evaluated for  
 5 success?  
 6 A. All of the efforts, the interventions  
 7 were supported by public health efforts. The one  
 8 that was evaluated was the smoking cessation  
 9 facilitator that I just mentioned.  
 10 Q. And that was the survey that you just  
 11 mentioned that's on your desk that Dr. Meydrech  
 12 has reviewed?  
 13 A. Has reviewed, correct.  
 14 Q. It goes on to say, "Including testimony  
 15 that nationally programs to prevent tobacco use  
 16 have experienced success through school,  
 17 community, media, and environmental  
 18 interventions." Do you see that?  
 19 A. I do.  
 20 Q. Do you expect to give that testimony?  
 21 A. I do.  
 22 Q. What national programs are you referring  
 23 to?  
 24 A. "Teens as Teachers." There's one in  
 25 South Carolina -- I can't recall the name of it.

1 "Teens as Teachers" is an excellent program,  
2 however, that's been introduced in communities and  
3 schools, and it has been proven to be effective.  
4 It's been implemented in several other states.

5 Q. And that's the one that's in the process  
6 of being implemented in Mississippi?

7 A. Correct.

8 Q. How long has "Teens as Teachers" been  
9 around?

10 A. I don't know.

11 Q. Was it around when you started?

12 A. I don't think so.

13 Q. Any other programs, nationally, to  
14 prevent tobacco use that have experienced success  
15 through school, community, media, or environmental  
16 interventions?

17 A. There are programs that are being  
18 conducted that may or may not, necessarily, have  
19 names as in proper names such as "Teens as  
20 Teachers" that I am aware are going on in other  
21 states that I feel merit being looked at and  
22 possibly replicated in Mississippi.

23 Q. And what are they?

24 A. There's one in Tennessee where youth are  
25 being trained, and I'm sure it is similar to

1 A. Several states. I can't recall them off  
2 the top of my head -- have trained youth to make  
3 presentations to City Council members, make  
4 presentations to members of the Legislature.

5 Q. Does Mississippi have such a program?

6 A. Not that I'm aware of.

7 Q. How long have those programs been  
8 around?

9 A. It depends on the State and the funding  
10 that the states have. Some of the ASSIST states  
11 that have had funding since early 1990 have had  
12 programs for that long.

13 They have mega dollars to provide  
14 resources to train youth, and to transport youth,  
15 and to buy materials. Mississippi has none of  
16 that.

17 Q. Any other programs?

18 A. I'm sure there's some out there. Those  
19 are the ones that come to mind.

20 Q. Next it says, "Ms. Grubbs will testify  
21 as to the limited effectiveness of tobacco  
22 prevention and control measures due to the limited  
23 resources available to allocate to the problem."

24 Let's just stop right there.

25 What is your opinion as that the

1 "Teens as Teachers," but it is not "Teens as  
2 Teachers." Youth being trained to go into schools  
3 and communities. They're being trained to speak  
4 to legislators.

5 There is also SCAT which is Student  
6 Coalition Against Tobacco, which is a national  
7 group. A lot of states have SCAT coalitions.  
8 Mississippi does not have. We probably will not  
9 have, but we will have a youth tobacco coalition  
10 within the near future. It may not be structured  
11 as SCAT is, but it will be structured similarly.

12 Q. Does Mississippi have anything analogous  
13 to the program going on in Tennessee?

14 A. Not at this time.

15 Q. And I think you said has nothing  
16 analogous to the SCAT program?

17 A. Not at this time.

18 Q. How long has SCAT been around?

19 A. I believe it's been around since the  
20 early 1990s.

21 Q. How long has this program in Tennessee  
22 been around?

23 A. I don't know.

24 Q. Other national programs in other states  
25 that you are aware of that have had success?

1 effectiveness of Tobacco Control effort measures  
2 in Mississippi to date?

3 A. Well, you've alluded for two days to the  
4 fact that we're doing virtually nothing in  
5 Mississippi, and that the numbers are rising, and  
6 why aren't we doing more.

7 We have me. We have Susan Lloyd. And  
8 we're running around on very limited, if any,  
9 funds to do anything. We have very limited  
10 dollars to provide materials to teachers. We have  
11 limited dollars to provide training. We have no  
12 funds to provide merchant education training,  
13 which you, yourself, have admitted is a major  
14 component of the tobacco industry. And I'm fairly  
15 certain if pro-health groups had the opportunity  
16 and the funds that the tobacco industry has to  
17 provide education that we could do an equally well  
18 job.

19 I think it takes money to get a message  
20 across. We have limited dollars for any kind of  
21 public service announcements, limited dollars to  
22 put anything in the newspaper, to even travel to  
23 another part of the State or across town.

24 There have been times when we've not  
25 even had money to crank up our cars and drive

Page 474

Page 476

1 across town to make a presentation.

2 It certainly inhibits our ability to be  
3 effective.

4 Q. Is there anything else other than lack  
5 of funds that inhibits your ability to conduct the  
6 Tobacco Control -- Tobacco Prevention and Control  
7 effort in Mississippi?

8 A. The inundation by the tobacco company --  
9 the tobacco industry, rather, of freebees,  
10 products, services that they provide to merchants  
11 in the State.

12 Q. That's a reference to the second part of  
13 this sentence, "The tobacco's aggressive  
14 advertising, marketing, and promotional  
15 activities?"

16 A. It may be.

17 Q. When you say -- let's move on to that,  
18 that the tobacco industries are aggressive  
19 advertising, marketing, and promotional  
20 activities. What are you referring to there other  
21 than what you just testified to a moment ago?

22 A. Other than the pervasive nature of all  
23 of the ads that are around the State, and the free  
24 products that are out there being given out, and  
25 the billboards, and the welcome mats, and the

1 resources and capabilities addressed the issue at  
2 some level. I do not know what level necessarily,  
3 but I know that it has been discussed.

4 Q. Are you aware of any ordinances that  
5 have been passed in any communities, cities, towns  
6 in Mississippi restricting tobacco advertising?

7 A. I'm not aware of any.

8 Q. And not aware of any on the statewide  
9 level?

10 A. I'm not aware of any. I don't have the  
11 funds to survey to see if there have been any  
12 ordinances passed. As far as I know, no  
13 anti-tobacco group in Mississippi has the funds to  
14 even conduct a survey to determine that.

15 Q. When you mentioned a moment ago these  
16 programs by other states that were being  
17 implemented and that had been effective in  
18 controlling tobacco use, how are you evaluating  
19 their effectiveness?

20 A. On what I am told by the other states  
21 and what I am told -- what I hear from the Centers  
22 for Disease Control regarding those.

23 If the Office on Smoking and Health  
24 recommends that I contact a person in another  
25 state and ask them about their program, then I

Page 475

Page 477

1 "Push, Come In, We're Open, Marlboro man and the  
2 Marlboro man that hangs everywhere you go, and the  
3 Camel that's erect everywhere you go -- what else  
4 is there? I mean it's everywhere. You cannot  
5 breathe in Mississippi. You cannot inhale without  
6 seeing tobacco and exhale in the same without  
7 seeing tobacco.

8 Q. Yet Mississippi has done nothing to curb  
9 tobacco advertising?

10 MR. YOUNG: Object to the form. That's  
11 argumentative. If you've got a question for her,  
12 ask a question.

13 Q. Has Mississippi done any --

14 A. I cannot speak for Mississippi.

15 Q. To your knowledge, has the State of  
16 Mississippi done anything to curb tobacco  
17 advertising?

18 A. There have been a lot of local movements  
19 among local groups, many of whom I've mentioned in  
20 the two days that I've been sitting here. The  
21 Mississippi Executive Prevention Committee,  
22 SWEEPS, the Mississippi Council for Tobacco-Free  
23 Society, the Mississippi Tobacco-Free 2000  
24 Coalition.

25 They have all within the realm of their

1 consider that to be a credible source, and I do  
2 that.

3 I want to go on record as saying that  
4 the "Camel Chase" program that we conducted in  
5 Mississippi was recognized nationally as a very  
6 innovative program to replicate, and it was  
7 replicated in a number of states.

8 The Surgeon General of the United States  
9 even made notice of the program and recommended to  
10 several people that they contact Mississippi and  
11 find out how to conduct "Camel Chase" programs.

12 Q. Okay. The last sentence of that  
13 paragraph says, "You will also suggest strategies  
14 that would enhance the State's ability to better  
15 prevent adolescent initiation and enable  
16 successful cessation among those who would like to  
17 quit." What are those strategies?

18 A. The first strategy would be to secure  
19 funds from some source that would enable us to  
20 have staff and resources to infiltrate the State  
21 with pro health messages about the need to not use  
22 tobacco products, to provide educators with  
23 materials that they need to go into the classroom  
24 and present messages, to provide communities with  
25 the materials and resources that they need to

Page 478

Page 480

1 fully understand that tobacco use is a health  
2 hazard, to provide pro health messages that youth  
3 would see as readily as they see tobacco  
4 messages.

5 Q. Okay. Those are all related to a lack  
6 of funds. Are there other strategies, other than  
7 securing financing, that would enhance the State's  
8 ability to better prevent adolescent initiation  
9 and enable successful cessation among those that  
10 would like to quit?

11 A. We'll continue doing what we're doing  
12 now without any funds. We'll continue  
13 networking. We're going to continue networking  
14 with other organizations.

15 We're going to continue providing  
16 training so that the people who are trained can  
17 disseminate the information and become an arm of  
18 the Tobacco Prevention and Control movement.

19 We're going to develop local coalitions  
20 throughout the State. We're going to continue to  
21 provide training to the members of the Mississippi  
22 Tobacco-Free 2000 Coalition so that they're better  
23 armed to answer questions when they're asked  
24 and/or to implement initiatives in the communities  
25 in schools throughout the State.

1 the State's ability to better prevent adolescent  
2 initiation and enable successful cessation among  
3 those who would like to quit?

4 A. Other than that list I just gave you?

5 Q. Yes, ma'am.

6 A. I'm sure that list goes on and on.

7 Q. Can you think of anything else here  
8 today?

9 A. We're going to continue doing what we  
10 have done. We're going to get the Tobacco  
11 Prevention and Control Plan printed, completed and  
12 printed. We're going to get it disseminated  
13 widely throughout the State.

14 We're going to follow-up on a recent  
15 grant application that we worked with the American  
16 Cancer Society to the Robert Wood Johnson  
17 Foundation, during which time hundreds of people  
18 in Mississippi said they wanted to partner with  
19 the Coalition that we now have in existence.

20 We're going to contact those people and  
21 ask them how they can partner with us, and  
22 identify methods that they can use, and continue  
23 working the way that we have been.

24 Q. Okay. Anything else that you can think  
25 of right now?

Page 479

Page 481

1 We are going to continue to work with  
2 schools of nursing. We're going to work with the  
3 medical school. We're going to work with the  
4 dental school in efforts to get information into  
5 those professions, as well as get those  
6 professions to go into schools and communities and  
7 take information.

8 We're going to continue working with the  
9 American Cancer Association, Heart Association,  
10 Lung Association, and their volunteers in any  
11 initiative that they have going that has the  
12 possibility of decreasing the use of tobacco by  
13 youth.

14 We're going to continue doing what we're  
15 doing and doing it as well as we have done it in  
16 the past and as well as we can possibly do it  
17 given the fact that there are no resources and  
18 there are probably none in sight.

19 Q. You've said you'd like to secure funds,  
20 and you're going to continue doing what you're  
21 doing, and you outlined a list of things that  
22 you're currently doing that you'd like to continue  
23 doing.

24 Are there other strategies that you are  
25 referring to in this sentence which would enhance

1 A. Generally, that's it.

2 MR. BURTON: Why don't we take about a  
3 five minute break and let me look at some notes?  
4 And I think we will be done pretty quickly.

5 (A short break was taken.)

6 Q. I understand that there have been some  
7 materials brought here, and you have some  
8 statistics to give us in response to some of the  
9 questions I asked you earlier; is that correct?

10 A. I have the YRBS and BRFS data that was  
11 missing this morning.

12 MR. YOUNG: Why don't you identify  
13 everything you had sent over here, okay.

14 A. Don't close it. I have the 1993  
15 Mississippi Youth at Risk Survey report.

16 MR. YOUNG: Which has been produced?

17 A. Which has been produced. I have the  
18 Behavioral Risk Factor Surveillance System 1991  
19 report from the Department of Health that has been  
20 produced.

21 I have the 1993 YRBS data that came from  
22 the State Department of Education to the State  
23 Department of Health.

24 Q. Whoa, whoa, whoa. You got the 1993  
25 Youth Risk Behavior Survey report?

1 A. Correct.  
 2 Q. And you said you also have YRBS data for  
 3 the same year?  
 4 A. That's correct.  
 5 Q. Is it different data?  
 6 A. It should not be. I do not know. I use  
 7 the report. I do not use the data. The data was  
 8 sent over today at our request, but I rely on this  
 9 report.  
 10 Q. This data is maintained by the  
 11 Department of Health?  
 12 A. It is --  
 13 Q. Or the Department --  
 14 A. This particular data is, this book is.  
 15 The Department of Education collects this, and  
 16 they provided this particular information to the  
 17 Division of Health, Promotion and Education. From  
 18 this, this report is developed. This report is  
 19 what I rely on.  
 20 Q. Okay. When you read this back, you  
 21 won't know what "this" and "this" is.  
 22 MR. YOUNG: Let's get them marked.  
 23 Refer to them, and we'll get copies or whatever.  
 24 MR. BURTON: Yeah. Let's mark them.  
 25 (Exhibits 34 through 39 marked for

1 Q. Doesn't say that.  
 2 A. Well, that's what it is.  
 3 Q. But the BRFS report, traditionally, is  
 4 much thicker than this. This is just a --  
 5 A. That was a condensed report that we  
 6 produced that year.  
 7 Q. Do you produce these every year?  
 8 A. For -- no. We don't.  
 9 Q. Exhibit 37 is a "Report on Behavior  
 10 Health Risks of Mississippians from 1990 to 1994,"  
 11 correct?  
 12 A. Trend report, correct.  
 13 Q. That has been produced in this case?  
 14 A. I do not know.  
 15 Q. Exhibit 38 is what?  
 16 A. The 1994 Behavioral Risk Factor  
 17 Surveillance Data.  
 18 Q. 1994?  
 19 A. Yeah.  
 20 Q. So that is the 1994 data that supports  
 21 the 1994 Behavioral Risk Factor Surveillance  
 22 report?  
 23 A. Correct.  
 24 Q. So that is the same thing as in  
 25 Exhibit 34, except it's for the behavior -- it's

1 identification.)  
 2 Q. (By Mr. Burton) The documents you've  
 3 brought here today, and let me see if I can go  
 4 through them as I understand them.  
 5 Deposition Exhibit 34 is a three-ring  
 6 notebook with an orange cover entitled "1993 YRBS  
 7 Data." It's my understanding that this is data  
 8 maintained in the Mississippi State Department of  
 9 Health from which the Youth Risk Behavior Survey  
 10 report is compiled; is that correct?  
 11 A. Correct.  
 12 Q. And the data in what has been marked as  
 13 Exhibit 34 has been produced in this case,  
 14 correct?  
 15 A. Correct.  
 16 Q. Exhibit 35 is the 1993 Youth Risk  
 17 Behavior Survey report?  
 18 A. Correct.  
 19 Q. That has been produced in this case, as  
 20 far as you know?  
 21 A. As far as I know.  
 22 Q. Exhibit 36 is something called the  
 23 "Behavioral Risk Factor Surveillance System  
 24 1991."  
 25 A. Report.

1 for BRFS, instead of YRBS?  
 2 A. Correct.  
 3 Q. What is the last Exhibit?  
 4 A. It is 1993 BRFS data.  
 5 Q. Now, when I was asking you some  
 6 questions earlier about smoking prevalence, you  
 7 said that you needed to consult certain documents  
 8 to get the specifics of your opinion, correct?  
 9 A. Correct.  
 10 Q. Are the documents marked as Exhibits 34  
 11 through 39 those documents?  
 12 A. Basically, they are. I would have  
 13 preferred to have had the 1994 and '93 reports as  
 14 opposed to the data, but this is what was sent  
 15 over. So I do not, typically, use this data. I  
 16 use reports that are produced.  
 17 Q. You use reports like Exhibit 35?  
 18 A. I do.  
 19 Q. Now, when you testify at trial, do you  
 20 expect to render an opinion as to the prevalence  
 21 of smoking among youth in several different years?  
 22 A. I -- I do.  
 23 Q. What years?  
 24 A. 1993 and 1995.  
 25 Q. Only those two years?

Page 486

Page 488

1 A. I do not know if I have information  
2 earlier than that.  
3 Q. And what will your opinion be with  
4 respect to the prevalence of youth smoking in  
5 Mississippi at trial?  
6 MR. YOUNG: Again, I don't know if y'all  
7 are on the same wavelength or not. You're saying  
8 "opinion." I don't think she understands that as  
9 being how, but ask her.  
10 Q. (By Mr. Burton) What's your opinion  
11 going to be?  
12 A. My opinion is going to be what's  
13 produced in these reports that the prevalence is  
14 increasing.  
15 Q. So you're going to make the general  
16 opinion that it's increased, and the factual  
17 support for that will be the facts that are in the  
18 two YRBS surveys that you just mentioned?  
19 A. Correct.  
20 Q. And that will be the sum total of the  
21 support for your opinion that it's increased  
22 between 1991 and 1993?  
23 MR. YOUNG: Are you talking about  
24 documentation-wise?  
25 MR. BURTON: Yes?

Page 487

1 A. Documentation-wise.  
2 Q. And the balance of the support is from  
3 your own personal life's experience?  
4 A. Related to my job, correct.  
5 Q. Now, we also talked about other  
6 statistical opinions you might give in this case.  
7 Do you recall that?  
8 A. I do.  
9 Q. And is it true that the other  
10 statistical opinions you will give in this case  
11 will be based on the other documents in front of  
12 you?  
13 A. They will be based on either these  
14 documents or the reports that were generated from  
15 these documents.  
16 Q. And --  
17 A. Preferably from the reports.  
18 Q. And these would be opinions as to the  
19 prevalence among -- of smoking among Mississippi  
20 adults?  
21 A. Adults.  
22 Q. By race?  
23 A. By race.  
24 Q. Gender?  
25 A. Gender.

1 Q. Educational?  
2 A. Educational.  
3 Q. And economics, income?  
4 A. Income.  
5 Q. Anything else?  
6 MR. YOUNG: I think y'all mentioned  
7 education earlier.  
8 A. He did say that. I believe that's it.  
9 Q. (By Mr. Burton) Let's take those one at  
10 a time. What is your opinion going to be with  
11 respect to smoking prevalence by race?  
12 A. That it is higher among the white  
13 population than among the nonwhite population of  
14 Mississippi based on BRFS.  
15 Q. Is that an analysis at a given point in  
16 time or is that an analysis that is trending over  
17 a period of time?  
18 A. I believe it's trending.  
19 Q. And which way is it trending in your  
20 opinion?  
21 A. Upward.  
22 Q. So that -- what do you mean by that?  
23 A. I believe that more whites are using  
24 tobacco products than are nonwhites in  
25 Mississippi.

Page 489

1 Q. And the gap is widening?  
2 A. I believe it is.  
3 Q. And the support for your opinion that  
4 the difference between the number of whites that  
5 smoke and the number of nonwhites that smoke is  
6 widening is found in Exhibits 38 and 39 and 37?  
7 A. The statistical support will be.  
8 Q. Are you going to rely on any other  
9 documents to support that opinion other than 37,  
10 38, and 39?  
11 A. Not Mississippi specific, I will not.  
12 Q. Do you expect to give opinions on  
13 smoking prevalence by race on a nation-wide basis?  
14 A. I don't expect to.  
15 Q. Do you expect to give an opinion with  
16 respect to smoking prevalence among the Medicaid  
17 population?  
18 A. No.  
19 Q. Have you ever conducted any analysis of  
20 the smoking prevalence among the Medicaid  
21 population according to any factor -- age, race,  
22 education, income, or age?  
23 A. No.  
24 Q. Are you aware of any such study that's  
25 been done by anyone within the State of

Page 490

Page 492

1 Mississippi?  
2 A. No.  
3 Q. All right. Let's go to education. Do  
4 you expect, at trial, to give an opinion with  
5 respect to smoking prevalence varying based upon  
6 education?  
7 A. I do.  
8 Q. And what is that opinion?  
9 A. That the lower the level of education,  
10 the higher the prevalence of smoking, tobacco use.  
11 Q. And the basis for that opinion is  
12 Exhibits 37, 38, and 39?  
13 A. And the reports generated from those.  
14 Q. Any other documentary support for that  
15 opinion?  
16 A. No.  
17 Q. Any other support for that opinion at  
18 all?  
19 A. My professional experience. Did you say  
20 documented?  
21 Q. As I understand, the only documentary  
22 support are those three exhibits?  
23 A. Those three exhibits.  
24 Q. And so with respect to smoking  
25 prevalence by education, you expect to look at

1 1995?  
2 A. It will be, 1990 to 1994.  
3 Q. 1990 to 1994?  
4 A. I do not know that we have 1995 data  
5 yet. I'm not certain of that.  
6 Q. Have you conducted any studies that  
7 demonstrates that smoking prevalence among whites  
8 and nonwhites has varied from year-to-year?  
9 MR. YOUNG: Has she conducted any  
10 study?  
11 MR. BURTON: Yeah.  
12 A. No.  
13 Q. (By Mr. Burton) Have you read any study  
14 that suggests that?  
15 A. No.  
16 Q. Have you read any study that suggests  
17 that it varies from decade-to-decade?  
18 A. I can't answer that.  
19 Q. But your opinions will be based on 1990  
20 to 1994 only?  
21 A. Correct.  
22 Q. Let's go to income level. Do you expect  
23 to give an opinion with respect to smoking  
24 prevalence varying by income level?  
25 A. I do.

Page 491

Page 493

1 years 1994 and 1995?  
2 A. I expect to be able to look at years  
3 1990 through 1994.  
4 Q. But no other years?  
5 A. I do not know that I have any other data  
6 available to me.  
7 Q. You would agree that smoking prevalence  
8 not only varies according to one's education, but  
9 varies from -- do you think it varies from  
10 year-to-year by education?  
11 A. I don't believe it varies significantly  
12 from year-to-year.  
13 Q. What about from decade-to-decade?  
14 A. I haven't -- I haven't studied that.  
15 Q. Have no opinion on that?  
16 A. I have read data on it. I have read  
17 reports on it, rather, that indicate that it has  
18 gone down in the last couple of decades. I have  
19 nothing to back that up other than articles that I  
20 have read.  
21 Q. Let's go back to race for a moment.  
22 Your opinions with respect to smoking prevalence  
23 among the white population and the nonwhite  
24 population are based on data from two years, 1994  
25 and 1995 -- excuse me, five years, from 1990 to

1 Q. What is that opinion?  
2 A. That the lower the income level the  
3 higher the prevalence of smoking. At some point  
4 when income reaches a certain level, which I  
5 believe is over 60,000, then the prevalence begins  
6 to rise again.  
7 Q. So it dips and then goes back up?  
8 A. It dips and goes back up.  
9 Q. And the basis for that opinion is  
10 Exhibits 37, 38, and 39?  
11 A. Correct.  
12 Q. And the opinion --  
13 MR. YOUNG: Documented basis.  
14 MR. BURTON: Documented.  
15 Q. (By Mr. Burton) Is there any other  
16 basis for that opinion?  
17 A. No.  
18 Q. And that opinion will be based on an  
19 analysis of smoking prevalence by income level for  
20 years 1990 through 1994?  
21 A. Correct.  
22 Q. And you have not analyzed other years?  
23 A. I have not.  
24 Q. Do you know whether smoking prevalence  
25 by income level has varied from decade-to-decade?

Page 494

Page 496

1 A. Once again, the report that I have read  
2 has indicated that it has. I have not studied it,  
3 nor do I have any documentation in front of me to  
4 back that up.

5 Q. Was that the same report that you  
6 mentioned a few moments ago?

7 A. It's a Surgeon General's report.

8 Q. And that's a report that you would place  
9 some degree of reliability?

10 A. I would.

11 Q. You have those books open to certain  
12 pages. Why is that?

13 A. I thought you might ask me a question.

14 Q. Do you have certain statistics in mind  
15 with respect to increases in smoking among youth,  
16 for example?

17 A. Among youth? I've already addressed  
18 that. In 1993, it was 28 percent in Mississippi.  
19 In 1995, it was 35 percent.

20 Q. How about smoking by race? Do you have  
21 certain statistics on that?

22 A. No, I don't have that in front of me. I  
23 can certainly go through there and pull it.

24 Q. Any other opinions that you expect to  
25 give concerning smoking prevalence at trial of

1 A. I do not know.

2 Q. Have you asked for additional funding of  
3 the Mississippi State Department of Health within  
4 your budget requests?

5 A. I have.

6 Q. Have you done that every year?

7 A. Every year.

8 Q. And what has been the outcome?

9 A. I have gotten some of what I have  
10 requested, and not gotten some of what I have  
11 requested.

12 Q. How much of an increase have you  
13 requested?

14 MR. YOUNG: Per year?

15 MR. BURTON: Per year.

16 A. Well, a small increase. I'm not sure  
17 exactly how much. I haven't looked at that.

18 Q. (By Mr. Burton) Do you know what the  
19 budget for the Mississippi State Department of  
20 Health Tobacco Prevention Control Coordinator is?

21 A. Yes, I do.

22 Q. What is it?

23 A. I brought that information to you. It  
24 is roughly \$125,000.

25 Q. For what year?

Page 495

Page 497

1 this case?

2 A. No.

3 Q. Are there any other opinions that you  
4 expect to render at the trial of this case that we  
5 have not discussed today?

6 A. No.

7 Q. So you've given us all the opinions you  
8 expect to render at trial?

9 A. I have.

10 Q. Before we took the break, you were  
11 talking about strategies --

12 MR. YOUNG: Do we need any of this?

13 MR. BURTON: No.

14 Q. (By Mr. Burton) -- that would enhance  
15 the State's ability to better prevent adolescent  
16 initiation, and enable smoking cessation among  
17 those who would like to quit.

18 And you read off for me a laundry list  
19 of things that you would like to do, but were  
20 dependent upon finding additional funding. Do you  
21 recall that?

22 A. I do.

23 Q. Has Mississippi State Department of  
24 Health asked the Mississippi Legislature for  
25 additional funding to support these projects?

1 A. Any year, this year.

2 Q. And that is comprised of IMPACT funding?

3 A. Correct.

4 Q. And IMPACT is from the CDC?

5 A. Correct.

6 Q. And federal block funding?

7 A. Correct.

8 Q. It involves no state funds?

9 A. Not to my knowledge.

10 Q. Have you requested that the Mississippi  
11 State Department of Health allocate state funds to  
12 the tobacco prevention and control effort?

13 A. No, I have not.

14 Q. Do you know whether the Mississippi  
15 State Department of Health has made a budget  
16 request that would include the allocation of state  
17 funds to the tobacco prevention and control  
18 effort?

19 A. No, I don't.

20 Q. Who would be responsible for making  
21 those budget requests?

22 MR. YOUNG: To whom?

23 Q. (By Mr. Burton) Well, you would be  
24 responsible for requesting it -- you prepare a  
25 budget every year, correct?



Page 498

Page 500

1 A. I do.  
 2 Q. And to whom do you present that?  
 3 A. Ellen Jones.  
 4 Q. And when you say you have requested an  
 5 increase, have you requested an allocation of  
 6 state funds?  
 7 A. No, I have not specified where it should  
 8 come from.  
 9 Q. And what does Ellen Jones do with your  
 10 budget request?  
 11 A. I don't know everything that she does  
 12 with it.  
 13 Q. What do you know that she does with it?  
 14 A. I know that, typically, what I request  
 15 from her comes from preventive health services  
 16 block grant, and she is responsible for overseeing  
 17 that grant for the entire agency and has to take  
 18 all the programs into consideration, so she gives  
 19 as much consideration as she can to all of the  
 20 programs within health promotion, tobacco being  
 21 one of them.  
 22 Q. And this block grant is a federal grant?  
 23 A. It is.  
 24 Q. You're going to have to help me. The  
 25 name of the --

1 A. The directors of those programs, I  
 2 assume.  
 3 Q. Do you know if the Mississippi State  
 4 Department of Health makes a budget request to the  
 5 Legislature every year?  
 6 A. I think they do.  
 7 Q. Do you know the amount of that budget?  
 8 A. I do not. A report comes out annually,  
 9 and it varies by year. Way above my head.  
 10 Q. Do you consider yourself an expert on  
 11 any aspect of the Medicaid program?  
 12 A. No.  
 13 Q. And you have not conducted any analysis  
 14 for the health care costs of the Medicaid program?  
 15 A. No.  
 16 Q. Or of smoking prevalence of the Medicaid  
 17 population?  
 18 A. No.  
 19 Q. Have you conducted any analysis of the  
 20 health care cost for the State employees -- the  
 21 State employees are covered by the State insurance  
 22 plan?  
 23 A. No.  
 24 Q. Have you studied smoking prevalence  
 25 among that population?

Page 499

Page 501

1 A. Preventive Health and Health Services  
 2 block grant, PHHS.  
 3 Q. But the office that Ms. Jones runs is  
 4 the Health Promotion --  
 5 A. And Education Division.  
 6 Q. Does the Health Promotion and Education  
 7 Division have any allocation of state funds?  
 8 A. I do not know.  
 9 Q. But it's your understanding when you  
 10 make your request to Ms. Jones what she is doing  
 11 is allocating to you a portion of a federal grant  
 12 or to your division or department?  
 13 A. She is doing that in her capacity as  
 14 overseer of the preventive block grant.  
 15 Q. To your knowledge, does the Mississippi  
 16 State Department of Health receive state funds for  
 17 any purpose?  
 18 MR. YOUNG: If you know.  
 19 A. I don't know.  
 20 Q. (By Mr. Burton) Do you know how the  
 21 Mississippi State Department of Health funds its  
 22 health programs for things such as tuberculosis or  
 23 sexually transmitted diseases or AIDS?  
 24 A. I don't know -- some grants.  
 25 Q. Who would know that?

1 A. No.  
 2 Q. Are you aware of any study of smoking  
 3 prevalence among that population that's been  
 4 conducted?  
 5 A. No.  
 6 MR. BURTON: I think that's all I have.  
 7 MR. BAILEY: I've got one or two just  
 8 quick follow-ups, Lee. I'm serious, just one or  
 9 two.  
 10 EXAMINATION BY MR. BAILEY:  
 11 Q. Ms. Grubbs, I'm Lonnie Bailey. I  
 12 represent the American Tobacco Company, and just a  
 13 couple --  
 14 MR. YOUNG: I assume that's for the  
 15 record, because she knows who you are.  
 16 MR. BAILEY: Knows exactly who I am.  
 17 I'm the guy that brought her candy today at the  
 18 break.  
 19 Q. (By Mr. Bailey) You, in discussing your  
 20 opinions about community interventions, your  
 21 testimony about programs which have been  
 22 introduced into schools, work sites, communities,  
 23 and clinics by the public health staff, you  
 24 mentioned that some of the things that you would  
 25 like to do is to form local coalitions?

1 A. Correct.  
 2 Q. And then, I think, you said that they  
 3 don't exist in Mississippi, but we are working  
 4 with two communities to form coalitions?"  
 5 A. Correct.  
 6 Q. What two communities are they?  
 7 A. Laurel than Pascagoula -- Moss -- what  
 8 is that town? Escatawpa.  
 9 Q. Is it Pascagoula, or is it Escatawpa, or  
 10 is it a combination of the two?  
 11 A. It's Escatawpa. There may be members  
 12 from, but it is in Escatawpa.  
 13 Q. But that's in Jackson County?  
 14 A. Correct.  
 15 Q. When did you begin working with those  
 16 two communities on forming a local coalition?  
 17 A. I was asked by both of the communities  
 18 within the last six months to visit them and help  
 19 them get started.  
 20 Q. Have you visited both communities?  
 21 A. I have not. I have been working on  
 22 other things, and they have, too, and we had both  
 23 agreed mutually that we would start in January,  
 24 February of '97.  
 25 Q. Okay. So when you said that you're

1 Q. I might as well ask you which church, if  
 2 you recall?  
 3 A. It's Latter Day Saints and that's not  
 4 the correct title for that church.  
 5 Q. Seventh Day Adventists?  
 6 A. No, it's the Latter Day Saints, but  
 7 there's a longer title than that in Escatawpa.  
 8 The minister is my sister.  
 9 Q. Did I understand you to tell Mr. Young  
 10 that the minister of that church is your sister?  
 11 A. That's correct.  
 12 Q. That's how you came to have this contact  
 13 from the person from Escatawpa because of your  
 14 familial relationship?  
 15 A. It was that way, and the lady had heard  
 16 that I had been into a school in Ocean Springs and  
 17 had made a presentation. And someone who was in  
 18 the Ocean Springs schools had mentioned it to her,  
 19 and she contacted me, and in conversations with  
 20 her, I found out that she goes to the church that  
 21 my sister goes to.  
 22 MR. BAILEY: I don't think I have any  
 23 further questions.  
 24 MR. BURTON: Thank you.  
 25 (Time Noted: 3:44 p.m.)

1 working with two communities, what you actually  
 2 mean is you plan to work with two communities?  
 3 A. I've had conversations with them, and I  
 4 am putting together materials that might benefit  
 5 them, and intend to go and visit with them.  
 6 Q. Have you actually provided them with any  
 7 materials yet?  
 8 A. I have not yet.  
 9 Q. Who contacted you in Laurel?  
 10 A. Ms. Paula Watkins. I believe it's  
 11 either Watkins or Watson.  
 12 Q. Do you recall, is she like an employee  
 13 of some governmental agency or work with a  
 14 hospital?  
 15 A. Mr. Bailey, I would have to go back and  
 16 look at my notes on that to see where she works.  
 17 I'm not certain.  
 18 Q. What about -- who contacted you from  
 19 Escatawpa?  
 20 A. And I can't tell you the lady's name.  
 21 Q. Do you recall whether that lady was  
 22 affiliated with some nonprofit organization or  
 23 some governmental agency?  
 24 A. She's actually affiliated with the  
 25 church down there.

1 CERTIFICATE OF DEPONENT  
 2 I, Cheryl Grubbs, deponent in the  
 3 deposition taken in the herein styled and numbered  
 4 cause, certify that I have examined the foregoing  
 5 504 pages as to the correctness thereof, and that  
 6 after reading said pages, I find them to contain a  
 7 full and true transcript of the testimony as given  
 8 by me on November 7, 1996, in Jackson,  
 9 Mississippi.

10 Subject to those corrections listed  
 11 below, if any, I find the transcript to be the  
 12 correct testimony I gave at the aforesaid time  
 13 and place.

Page	Line	Comments
15	---	-----
16	---	-----
17	---	-----
18	---	-----
19	---	-----
20	---	-----
21	---	-----
22	---	-----
23	---	-----
24	---	-----
25	---	-----

This the \_\_\_\_ day of \_\_\_\_\_, 1996.  
 State of Mississippi  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me, this  
 the \_\_\_\_ day of \_\_\_\_\_, 1996.  
 My Commission Expires: \_\_\_\_\_  
 \_\_\_\_\_ NOTARY PUBLIC

## 1 CERTIFICATE OF COURT REPORTER

2 I, Ginger H. Brooks Court Reporter and  
3 Notary Public in and for the County of Hinds,  
4 State of Mississippi, hereby certify that the  
5 foregoing 504 pages contain a true and correct  
6 transcript of the testimony of Cheryl Grubbs, as  
7 taken by me in the aforementioned matter at the  
8 time and place heretofore stated, as taken by  
9 stenotype and later reduced to typewritten form  
10 under my supervision by means of computer-aided  
11 transcription.

12 I further certify that under the  
13 authority vested in me by the State of Mississippi  
14 that the witness was placed under oath by me to  
15 truthfully answer all questions in this matter.

16 I further certify that I am not in the  
17 employ of or related to any counsel or party in  
18 this matter and have no interest, monetary or  
19 otherwise, in the final outcome of this matter.

20 Witness my signature and seal this the  
21 11th day of November, 1996.

22  
23 GINGER H. BROOKS  
RPR, CSR - MS, OK, TX

24 My Commission Expires:

25 October 25, 1997